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Oceans and the law of the sea

Letter dated 18 September 2006 from the Permanent Representative of Mexico to the United Nations addressed to the Secretary-General

I have the honour to refer to agenda item 71, Oceans and the law of the sea, which will be considered during the sixty-first session of the General Assembly.

I am pleased to transmit herewith in that connection a document entitled "National environmental policy for the sustainable development of Mexico's oceans and coasts: Strategies for their conservation and sustainable use" (see annex).

The main purpose of this document is to establish a strategic framework for the conservation and sustainable use of Mexico's oceans and coasts.

The document sets out environmental policy guidelines aimed at coordinating and dovetailing the Government's public and sectoral policies by proposing a management model that is holistic, flexible, multidisciplinary and participatory.

The Government of Mexico considers that the information and conclusions in the attached document will provide valuable material for the sixty-first session of the General Assembly with respect to oceans and the law of the sea.

The Government would also be grateful if this letter and its annex were issued as a document of the sixty-first session of the General Assembly under item 71.

(*Signed*) Enrique **Berruga Filloy**
Permanent Representative of Mexico to the United Nations

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Annex to the letter dated 18 September 2001 from the Permanent Representative of Mexico to the United Nations addressed to the Secretary-General

National environmental policy for the sustainable development of Mexico's oceans and coasts: Strategies for their conservation and sustainable use

Background

In 2001, the Ministry of the Environment and Natural Resources (SEMARNAT) established the Sea and Coast Monitoring Group, and at the same time made it its task to devise a strategy for integrating the environmental management of the marine and coastal zones of the country. The progress made by the Group allowed it to identify the main agencies involved and the main line of action to be taken in dealing with the matter. It proved necessary, however, to make more of an institutional effort to develop and put into effect a national sea and coast policy.

In 2004, the Organization for Economic Cooperation and Development (OECD), evaluating the environmental development of its member countries, observed that Mexico did not have a commission or administrative agency that ensured proper coordination of the marine activities of the departments responsible for the economic sectors. It also recommended that the Government should make a serious effort in that regard, given the importance of integrated management of the coastal areas for the Mexican economy.

At the same time, the National Advisory Council for Sustainable Development, representing civil society, asked SEMARNAT to set up a policy framework for the coastal zone.

These actions and recommendations culminated in the formulation of the national environmental policy for the sustainable development of oceans and coasts, which established a strategic framework for their conservation and sustainable use. The national environmental policy sets environmental guidelines aimed at aligning and coordinating the Government's public and sectoral policies, and proposes a management model that is holistic, flexible, multidisciplinary and participatory.

National environmental policy objectives and guidelines for the sustainable development of oceans and coasts

Primary goals:

- To follow a coordinated, consensus policy on the uses of marine and coastal resources, which would lay the basis for those various uses together with an appropriate series of steps for the resolution of conflicts between the various users, so as to promote the governance of those areas;
- To design, develop and support a system of decisions and activities at the various levels of government for the marine and coastal zones of the country, based on the Government's participation in an ongoing planning process involving also the population living in the area and the economic operators and other interested parties;

- To direct sustainable development of the zone, as evidenced by the safety of its ecosystems, the protection of the populations living in it and their economic and social development, and the fulfilment of national and international commitments to the conservation of coasts and oceans;

- To take into account obligations stemming from international commitments concerning conservation of oceans and coasts and the law of the sea when designing and executing this public policy.

Secondary goals:

- To coordinate legal and administrative arrangements at the Federal, state and local levels that govern the economic and social development of the coastal zones;

- To put in place a legal structure that will serve the integrated management of the coastal zone, in keeping with the new public policy conception, vision and purposes;

- To arrive at an apportionment and decentralization of the management of the coastal zone so as to further the sustainable management aims of the policy.

In order to lay the groundwork for the achievement of these goals, the policy will revolve around six strategic focal points:

- Ecosystems and biodiversity;

- Production sectors and human settlements;

- Policy instruments;

- Regulatory and institutional framework;

- Information systems concerning oceans and coasts (scientific research, education and information);

- Governance and social participation.

Features of Mexico's marine and coastal territorial base

Natural factors

Mexico occupies a privileged geographical position, located between the two largest oceans on the globe, situated at an intertropical latitude as a transitional region between the neoarctic and neotropical zones. These features, together with its uneven topography, give rise to great variety of climates, environments and landscapes, which themselves explain the great biological diversity to be found in its territory.

The country has more than 11,000 kilometres of shoreline, distributed across 17 states and 150 towns, and an exclusive economic zone of more than 3 million square kilometres, almost 50 per cent more than its continental territorial extension. Although various institutions in Mexico have produced a great quantity of oceanographic information, the information has not been organized into a national database that would make it possible to integrate, and at the same time prioritize, scientific research and what is known about its oceans.

The coastal and marine environments are a big factor in the country's megadiversity. Some of its ecosystems, such as the mangrove swamps, coral reefs and marine pasturelands in the coastal zone, or the hydrothermal chimneys and cold seeps in the marine zone, are extremely rich biologically.

About 130 lagoon systems have been inventoried, with an area of approximately 1,567,000 hectares. These ecosystems can be described as areas of high productivity. They are host to a high degree of biological diversity, are sites for the reproduction, nourishment and refuge of species that have commercial value and sites for the recycling, storing and export of nutrients and sediments, and have great scenic value.

The main environmental elements distributed along Mexican beaches and rocky coasts are: sand dunes, egg-laying sites for sea turtles, internationally significant wetlands, barrier islands, a habitat for "charismatic" species or protected species, important biotic communities for the various ecosystems, and a habitat for shore and sea birds.

There are six recognized coral reef regions in Mexico. The approximate area of the warm-water coral reefs in the country is 1,780 square kilometres, that is, about 0.63 per cent of the total area of this type of reef globally. Little is known about the geographical distribution of the cold-water coral reefs in Mexico.

The coastal zone is vulnerable, to varying degrees, to the impact of a number of natural phenomena, especially hurricanes and floods, landslides and earthquakes. Chief among these natural threats are cyclones or hurricanes, owing to their disruptive effect on the population, the infrastructure and coastal ecosystems.

Economic factors

Today, our country maintains communications with the world through a broad maritime and port network. Mexico has a port system consisting of 107 ports and maritime terminals, 64 of which are deepwater ports, where 111 shipping lines, most of them flying foreign flags, operate.

Mexico provides about 0.9 per cent of the world's fish production, and its volume fluctuates between 1.35 and 1.57 million tons annually. It is estimated that approximately 269,000 people depend directly upon this economic activity.

Tourism represents the fourth source of foreign currency for the country. Mexico ranks eighth in the world in terms of number of visitors and twelfth in terms of income derived from tourist activity. That income represents about 8.4 per cent of the gross domestic product, generating a little more than 1,752,000 jobs. It is estimated that 58 per cent of the available hotel rooms are located in beachfront destinations.

Mexico is the world's seventh-ranking oil producer. The petroleum industry is a basic sector of the national economy since the sale and export of gas, oil and oil by-products account for approximately 30 per cent of the country's net income. Activities in this sector are conducted primarily in the marine and coastal areas of the Gulf of Mexico and in the south-eastern Pacific.

More than 90 per cent of electricity is generated by thermal power plants, many of which are located in the coastal zone. The country's only nuclear power plant is situated in Laguna Verde, Veracruz, in the Gulf of Mexico.

The chief industries in the coastal zone are the chemical and oil-refining industries, the steel industry and the naval construction industry.

The mining sector is not very developed on the coast and is represented mainly by the production of salt, limestone, sand and other minerals such as phosphorite. Other mineral resources with mining potential are manganese nodules and polymetallic sulphur deposits that are found in the exclusive economic zone.

Agriculture and livestock-raising in the coastal zone cover 29.36 per cent of the territorial extension of the 263 towns in the zone. While in the Gulf of Mexico dry-land farming is the commonest system (in 71.70 per cent of the farmed area), in the Mexican Pacific it is irrigation agriculture, in 58.59 per cent of the total area.

Population

Historically, the population on the coasts grew slowly and accounted for only a small portion of the total, however, starting in the second half of the 20th century, population dynamics have been affected by the creation and promotion of activities in the fields of tourism, oil, ports, agriculture and industry. In the year 2000, the population in the 263 municipalities making up the proposed coastal zone amounted to 22,808,068 people, representing almost a quarter of the country's total population. At the present time the coastal municipalities are maintaining a rate of population growth that is higher than the national average and higher than that of the inland municipalities.

Environmental problems

The rapid population growth and lack of long-term planning with regard to the development of economic activities has put pressure on ecosystems and their natural resources and has led both directly and indirectly to their gradual deterioration.

The main environmental problems associated with fishing have to do with overexploitation of resources and with destructive and/or non-selective fishing gear. Aquaculture has frequently been established on key ecosystems such as mangroves and swamps.

Beach tourism has been developed on the basis of huge real estate projects, resulting in major urban developments, investments in hotels and public infrastructure projects. This has resulted in damage to the environment and to the culture due to changes in land use and modification of the landscape. Moreover, certain tourist activities, such as watersports, have had a direct impact.

The environmental problems associated with the agricultural sector are related to improper use of chemicals (pesticides and fertilizers), inappropriate agricultural practices on land not suitable for farming and active deforestation to increase the land area available for agriculture or for extensive cattle-raising, all of which impacts the catchment area, as reflected in water contamination, erosion, sedimentation of coastal bodies of water and increased susceptibility to flooding in low-lying areas.

The industrial, oil and port facilities, as well as those of shrimp aquaculture, have frequently been established on key coastal ecosystems, such as wetlands, mangroves or sandbars, and these changes in land use have led to contamination and

other negative impacts, both from the facilities themselves and from the operations carried out in them.

Regulatory framework

There are 17 federal laws and eight federal regulations governing the coastal and marine zones. Moreover, there are nine different bodies that have direct or indirect authority in this area. Regulatory matters dealing with the coastal zone have always been handled with a sectoral approach, causing the legal framework controlling the zone to be extensive and inconsistent. The major shortcomings have to do with overregulation, inconsistencies among some instruments, gaps in the law, lack of coordination as regards areas of authority, sectoral conflicts of interest and a lack of monitoring and oversight.

There are environmental policy instruments, put in place by the law, that promote, restrict, guide or compel observance of certain clearly defined public policy objectives. In the specific case of coastal environmental policy, the applicable instruments are: the Ecological Code of the Territory, which includes a marine portion; the environmental impact evaluation; permits, licences, concessions and authorizations; the Mexican Official Standards and the protected natural areas.

These instruments need to be aligned in order to make their outcomes more efficient, and there is also a need to develop the necessary conditions for the application of other instruments in existence, such as those covering economic, financial and fiscal matters; self-regulation; certification; and the environmental audit.

Governance

The Constitution of Mexico makes the State the custodian of natural resources, with the land, bodies of water, wild flora and fauna and mineral resources, including those in marine environments, being considered as the heritage of the Nation. The Constitution also establishes the juridical bases of the environmental legislation for the sustainable use and conservation of natural resources.

Notwithstanding the complex system of social actors involved in the utilization of these resources, the responsibility for making determinations on their use and conservation falls to federal bodies. In consequence, the owners and users of the resources, and society itself, are not aware of the need for care of the environment, or else do not take responsibility for it.

Only recently has an environmental policy been developed that seeks to bring about compatibility between use and conservation, recognizing that, while natural resources support the life of society, usufruct thereof has been accompanied by the undermining of shared environmental values and services. It has to be recognized that the sectors in question are not always governed by environmental principles, but rather that policy decisions are taken that perpetuate the damage to the resources in the search for short-term economic benefits.

As for the participation of society, this occurs in very variable forms and to highly varying degrees. It is a heterogeneous process involving a diversity of actors: the federal, state and municipal governments, foundations, support groups, producers' organizations, chambers of commerce, professional associations, non-

governmental organizations, "ejido" public lands, rural and/or indigenous communities, and more.

In the coastal zone, which is in and of itself complex, there is a need to establish participatory mechanisms to involve society in inclusive processes of planning and decision-making for sustainable development.

Dissemination of information, training on the regulations applicable to the use of natural resources, development planning and the tracking of programmes and actions are also fundamental requirements if the community in general is to work alongside the authorities in monitoring compliance with environmental legislation.

Basic elements of a national environmental policy for the sustainable development of oceans and coasts

The policy should be:

Based on the big picture — in other words, it should involve government and society, science and technology, and also the sectoral and public interests in the creation and implementation of the programmes controlling the uses, sustainable development and protection of ecosystems, their resources and environmental services.

Coordinated both within and among institutions — that is to say, it should link the institutional actions and programmes, both vertically (within institutions) and horizontally (among institutions), on the basis of a general strategic framework, avoiding duplication of functions and overlapping of responsibilities, with efficiency and effectiveness.

Adaptive — meaning that it should be dynamic, able to change and adjust continually on the basis of evaluation and tracking of the outcomes of the strategic actions and institutional programmes that it contains.

Transparent — meaning that it should be open, based on relevant and accurate information on the actions and programmes undertaken, the resources applied and their results, allowing accountability and feedback from society.

Participatory and informed — namely, it should encourage wide involvement of different sectors of society, through participation by their members and public consultation in the decision-making process.

Multidisciplinary — in other words it should be inclusive and bring in the various areas of knowledge and science needed to understand the processes and phenomena that are present in the complex territorial environment of the coastal and marine zones.

Based on the best information available — that is to say, it should be based on evidence and information generated systematically, with scientific rigour to validate and underpin the decision-taking process.

Definition of the coastal zone

It was necessary to lay down the boundaries of the coastal zone so as to establish the territorial basis for implementation of the national environmental policy, in terms of its strategy and environmental outline, in order to define the persons and bodies involved and to specify the territorial limits of the requisite

management and coordination measures. It was also necessary to identify the coastal municipalities, and those that are impacted by the coast or that participate in the processes of coastal dynamics.

> "The coastal zone is the geographical area where there is mutual interaction among the marine environment, the terrestrial environment and the atmosphere. It comprises: (a) a continental portion made up of 263 coastal municipalities, 150 of them fronting on the sea and 113 immediately inland of the latter and subject to high or medium coastal influence; (b) a marine portion defined starting from the continental shelf and delimited by the -200 m isobath; and (c) an offshore portion represented by the national islands."

It is advisable to establish areas of high-priority attention at the regional level, based on criteria that are environmental, such as Protected National Areas and Priority Conservation Regions; or socio-economic, involving activities and infrastructure relating to industry, ports, tourism, fishing and aquaculture or urban development; or that are defined by risk and vulnerability, such as natural phenomena and those arising out of anthropogenic activities.

Strategic framework of the national environmental policy for the sustainable development of the oceans and coasts

Integration of the ocean and coastal areas, and of the resources and environmental services thereof, into the development of the country requires a range of tools to permit activation and continuation of long-term planning processes. To this end, it would be advisable for the Government of Mexico to include the following topics in the National Development Plan:

- Policies for the sustainable development of the oceans and coasts;
- The strategic role of Mexico's marine regions (Northern Pacific, Gulf of California, Southern Pacific, Gulf of Mexico and Caribbean Sea) in national development;
- The impact that the sectoral policies (agriculture, fishing, industry, tourism, transport and energy) have on the coastal zones;
- The importance of including in development plans and programmes (e.g. development of urban areas, tourism, ports, etc.) consideration of the risks that are natural to the coastal area, in order to reduce the vulnerability of the ecosystems, population and infrastructure to natural disasters;
- The advisability of making better use of existing funding schemes in sensitive areas such as the ocean and coastal zones;
- The international dimension of many coastal and marine issues of concern to Mexico, including the commitments undertaken by it in international treaties.

To the extent possible, the strategic planning for the sustainable use of the ocean and coastal resources will be prepared and carried out taking a dynamic, flexible and adaptive approach, in order to keep it viable and valid, with due allowance being made for the limitations and potential of the social organization, the productive system, the institutional framework and the conditions of the biophysical environment. However, this planning process is hampered by a set of problems that it has been difficult to overcome, notably:

- The lack in the National Development Plan of any national public policy offering a long-term view of the development and the protection of the oceans and coasts, and bringing together the various sectoral policies that impact these areas;
- Insufficient involvement by the users of the coastal and ocean resources in the decision-making process;
- Inconsistent legislation and public policies;
- A rigid bureaucratic and administrative system;
- A lack of financial and human resources for implementing integrated management initiatives at local and regional level;
- The lack of a national coordinating body.

These problems have to be tackled through a decentralized territorial approach, with coordination among the three arms of government. Solutions will have to be implemented locally in the context of a regional strategy. That will make the local administration responsible for handling environmental information, involving the users of the resources and regularly implementing integrated management plans.

The regional and watershed authorities will be responsible for drafting strategic proposals, promoting coordination among local authorities, ensuring compliance with national legislation and fostering cooperation among regions.

The authorities at the national level will be required to provide the statutory, legal and methodological framework needed in order to apply integrated management of the coastal and ocean resources. They will also have to provide the national picture in order to guide and support coherent activities at the regional and local levels.

The strategy for implementing an environmental policy for the oceans and coasts has been designed to respond to the main areas of interest defined at earlier diagnostic workshops that were organized to discuss the issue of management of the environment within the Mexican environmental sector, along the following main thematic lines:

Regulatory and institutional aspects

Steps must be taken to establish legal and administrative foundations to enable the official bodies of the three arms of government to act in concert with one another and with society, with a shared and agreed vision, working in a participatory and institutional manner within a context of sustainability, in accordance with a clear definition of powers, functions and responsibilities. To that end, it is proposed:

- To establish the juridical concept that will define the basic territorial area for the environmental management of the coastal zone;
- To strengthen the institutional context and select plans and programmes for coordinated, participatory and efficient handling of coastal environmental management at the national and local level.

Policy instruments

The environmental policy instruments that regulate, monitor and effectively establish the guidelines for natural resource management and productive and social development should view sustainable development in the oceans and coastal regions as a fundamental part of the national planning process.

The land and marine portions of the coastal areas and of the ocean waters over which the country exercises sovereignty can be integrated, by means of the Marine Ecological Code and the Regional Ecological Code, as first-level planning instruments for the development and operation of other environmental policy instruments. It will also be possible to establish a coastal region planning structure comprising the (i) Northern Pacific, (ii) Gulf of California, (iii) Southern Pacific, (iv) Gulf of Mexico and (v) Caribbean Sea as integral regions of ecological planning and regulation, with the coastal and ocean complexes being adopted and treated as Regional Environmental Management Units.

Ecosystems and biodiversity

Protection, conservation and sustainable use of the country's oceans and coasts must be ensured, based on the structural and functional characteristics of the ecosystems and taking into account the requirements and expectations of the social groups associated with them. Regional programmes must be set up to salvage, rehabilitate and/or restore marine and coastal ecosystems and include them as special management areas in the processes of spatial planning and planned economic development.

Production sectors and human settlements

Promotion of sustainable development of oceans and coasts will be based on scientific knowledge of the natural resources, in an effort to reverse the damage to coastal and ocean ecosystems, through the incorporation of ecological criteria, an overview of ecosystems, the best scientific evidence and the precautionary principle in the management of marine and coastal resources and development planning in each production sector.

Mechanisms must be established to control and prevent environmental damage due to both natural causes and human activity — as a result of production activities and the settlement of urban and rural centres in this zone — and to deal with the effects thereof on the population through a model for regional planning based on the elaboration of regional ecological legislation.

In planning and actions related to the development and use of coastal and ocean zones, it is necessary to mainstream the perspective arising from the commitments established in the United Nations Framework Convention on Climate Change, in order to reduce vulnerability, foresee disasters and carry out integrated risk management in these zones.

Governance and social participation

The conditions must be ensured for effective, appropriate administration and monitoring of the coastal zone in the development of production activities, based on institutional capacity-building and coordination of the three branches of government, in order to guarantee compliance with the regulatory framework, with

transparency and social participation through the development of environmental awareness and the dissemination of results.

Information systems (scientific research, education and information)

Efforts must be made to promote the development of an inclusive, accessible information system for guiding, communicating and coordinating scientific and technological research, with the aim of fostering the generation and exchange of knowledge, in order to support decision-making, environmental management and spatial planning, implement sustainable production systems and support the evaluation and monitoring of the environmental situation of oceans and coasts.

Enhanced training of human resources and enhanced institutional development and consolidation will be the key elements in the generation of national and regional scientific research, as will development of decision-making capacities.

Greater institutional efforts must be made to promote environmental education and public awareness between the production sectors and society in general, to raise awareness and encourage informed participation in environmental management and to generate behaviour conducive to sustainability of the coastal zone.

General outline of the environmental policy for oceans and coasts

Under each subject heading, the principal points of an environmental policy are proposed, which constitute the specific actions to be carried out; in other words, the operational thrust of the strategy. These points are summarized in a general manner below.

Regulatory and institutional framework

- Provision of a legal definition of the coastal zone
- Introduction of integrated coastal management into the administrative and legal framework
- Analysis of the desirability of drafting specific legislation (an Act) or complementing the existing regulatory framework regarding oceans and coasts
- Strengthening of the institutions responsible for administration of the coastal zone
- Promotion of regulations on specific topics through official environmental norms

Policy instruments

- Preparation of regional, municipal and Marine Ecological Codes and Spatial-planning Codes as basic instruments for environmental planning and the development of Mexico's coastal zone
- The Ecological Codes and Spatial-planning Codes will be the basis for coordinating the other local instruments such as Urban Development Programmes, Environmental Impact Assessments, and Integrated Coastal Management Zones, with the aim of simplifying the issuing of authorizations, concessions, certificates, licences and permits in the area of spatial planning

- Promotion of the application of economic instruments
- Promotion of environmental certification of coastal businesses and municipalities

Ecosystems and biodiversity

- Strengthening of mechanisms to address and resolve disputes concerning the assessment of environmental impact on coastal ecosystems
- Achievement of effective operation of the marine and coastal Protected Natural Areas
- Capacity-building for the protection of priority coastal and marine species and their habitats
- Promotion of conservation and protection of key or priority coastal ecosystems such as coastal lagoons, mangroves, coral reefs and marine pastures
- Preparation of specific regulations for the management of island systems
- Elaboration of guidelines for the management of preventive and control procedures for island systems, to guard against the environmental impact of invasive species and transfaunation

Production sectors and human settlements

- Promotion of sustainable development in the coastal zone based on the latter's specificities and the suitability of its land for production development
- Establishment of agreements relating to the planning of coastal economic development between private enterprise, the government and the different sectors of society
- Promotion of production development taking into account environmental criteria
- Prevention of pollution of the coastal zone and reduction of the environmental impact thereof
- Prevention and monitoring of pollution of the marine environment generated by land-based activities
- Promotion of sustainable development of the coastal and cruise-related tourist industry
- Promotion of sustainable practices in the development of fishing and marine activities
- Development of infrastructure and provision of port and maritime services, with coordination between the Ministry of Communications and Transport (SCT), the Ministry of the Navy (SEMAR) and the Ministry of the Environment and Natural Resources (SEMARNAT)
- Achievement of efficient management of coastal land under concession (Federal Maritime/Land Zones)

Governance and social participation

- Strengthening of the process of deconcentration and decentralization
- Support for the development of technical and institutional capacities of local governments
- Establishment of an inter-ministerial committee for integrated ocean and coastal management
- Establishment and development of the regional councils for ocean and coastal management
- Implementation of integrated coastal management programmes
- Promotion of participation in decision-making of IP, non-governmental organizations dealing with social, environmental and indigenous issues and farming and fishing organizations
- Achievement of a collective vision and collective action in decision-making and in solutions for a sustainable future in coastal and marine regions
- Strengthening of civilian protection and disaster prevention systems
- Preparation of vulnerability and risks maps for coastal and marine areas

Information systems on oceans and coasts (scientific research, education and information)

- Implementation of a national programme of scientific research for coasts and oceans
- Creation of a national system for environmental information on coasts and oceans
- Promotion of scientific knowledge of coastal and marine environments, focused on the ecosystem
- Promotion of scientific research and technological development as an instrument of environment policy
- Promotion of human resource development
- Fostering of integration of institutional networks at both national and regional level
- Elaboration of a programme for monitoring environmental quality, quality of life and economic development in coastal regions
- Promotion of awareness and a deeper understanding of environmental matters among coastal inhabitants.

Preparing for integrated coastal zone management

The national environmental policy for the sustainable development of oceans and coasts lays down guidelines for sustainable development through the use and appropriate exploitation of natural marine and coastal resources. The general thrust of the environmental policy is aimed at aligning and coordinating public and

sectoral policies, by proposing a management model that is holistic, flexible, multidisciplinary and participatory through:

- Promotion of an effective regulatory framework, focused on ecosystems
- Institutional strengthening, administrative deconcentration and decentralization and capacity-building
- Coordinated development of the coastal zone within a long-term land-use planning framework
- Effective application of policy instruments and the precautionary principle in regulating development
- Conservation of the structure and function (biodiversity and productivity) of coastal ecosystems and preservation of key habitats and ecosystems
- Promotion of participation and shared responsibility of society in decision-making based on the best available information
- Regional integration and integrated management of coastal zones.

Mexico has thus set about meeting the commitments made at the United Nations Conference on Environment and Development held in Rio in 1992 (Earth Summit) and those of the World Summit on Sustainable Development held in 2002 in Johannesburg, in line with the general provisions of the Constitution and the General Ecological Balance and Environmental Protection Act. In particular it will:

- Continue the technical participation of the Ministry of the Environment and Natural Resources (SEMARNAT) in the meetings organized in the framework of the 12 international conventions and forums relating to oceans and coasts that Mexico has signed or attended, particularly the work carried out under the auspices of the United Nations with regard to the oceans and the United Nations Convention on the Law of the Sea, including the important technical work derived from the Global Programme of Action, the Second Intergovernmental Review Meeting of the GPA (IGR-2) and the United Nations Oceans Process (UNICPOLOS);
- Continue with the technical work carried out in the framework of the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena Convention).

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Sport for Development and Peace

Sport for Development and Peace: the way forward

Report of the Secretary-General

Summary

The present report is submitted pursuant to General Assembly resolution 60/9 of 3 November 2005, by which the General Assembly requested the Secretary-General to elaborate an action plan that would expand and strengthen United Nations partnerships with Governments, sport-related organizations and the private sector. The Action Plan is based on an assessment of progress achieved, steps taken and difficulties encountered in realizing the potential of sport as a tool for development and peace.

The report reviews the achievements of the International Year of Sport and Physical Education 2005, and the broad range of activities, initiatives and networking carried out in countries worldwide, under the leadership of the Special Adviser to the Secretary-General on Sport for Development and Peace. It also describes activities by Member States, the United Nations system and other stakeholders to build on the momentum generated by the International Year.

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I. Introduction and background

1. The present report is submitted in accordance with General Assembly resolution 60/9 of 3 November 2005, by which the Assembly requested that the Secretary-General report on the implementation of the resolution and on the events organized at the national, regional and international levels to celebrate the International Year of Sport and Physical Education 2005.

2. In his report entitled "Sport for Peace and Development: International Year of Sport and Physical Education" (A/60/217), the Secretary-General described the broad range of activities, initiatives and networking under way and planned worldwide to commemorate the International Year. The present report summarizes the significant achievements of the Year and indicates steps taken to maintain that momentum.

3. In the 2005 World Summit Outcome world leaders stated: "We underline that sports can foster peace and development and can contribute to an atmosphere of tolerance and understanding, and we encourage discussions in the General Assembly for proposals leading to a plan of action on sport and development." (General Assembly resolution 60/1 para. 145.)

4. By resolution 60/9, the General Assembly requested the Secretary-General "to elaborate an action plan that will expand and strengthen United Nations partnerships with Governments, sport-related organizations and the private sector, on the basis, inter alia, of an assessment of progress achieved, steps taken and difficulties encountered in realizing the potential of sport as a tool for development and peace". The present report responds to that request and presents an Action Plan on Sport for Development and Peace (see chap. VI).

II. Institutional arrangements

5. The commemoration of the International Year was guided by the United Nations Office for the International Year of Sport and Physical Education. The Office was approved by the Secretary-General in December 2003 and was set up in May 2004. No financial request was made to the United Nations for the establishment of the Office; rather, its success has been dependent on the determination and will of all partners involved, on the financial assistance of the Swiss Agency for Development and Cooperation, following the establishment of a trust fund by the United Nations Fund for International Partnerships (UNFIP), and on the support in kind of the United Nations Office at Geneva and UNFIP. The Office for the International Year worked in close coordination with the Geneva and New York offices of Sport for Development and Peace, under the leadership of the Special Adviser to the Secretary-General on Sport for Development and Peace. After the Office for the International Year completed its work in December 2005, the Office of the Special Adviser continued to build on the momentum of the Year, advocating for the power of sport as a means to promote education, health, development and peace in pursuit of the Millennium Development Goals.

6. The United Nations Educational, Scientific and Cultural Organization (UNESCO) played a key role during the International Year as the lead agency for sport-related issues in the United Nations system, convening Governments to advance the cause of sport and physical education and to raise awareness about

physical education and sport as a means to promote quality education in achieving education for all, social development and peace.

7. The United Nations Communications Group Working Group on Sport for Development and Peace, formed in January 2005 under the leadership of the United Nations New York Office of Sport for Development and Peace, constitutes an essential forum to foster communication and collaboration within the United Nations system and among partners to advance the use of sport in development policies and programmes and in peacebuilding. The inter-agency Working Group played an important role in promoting commemoration of the International Year. Building on the 2003 report of the United Nations Inter-Agency Task Force on Sport for Development and Peace,[1] the Working Group published a business plan in June 2005, aiming to provide the United Nations system with a blueprint for promoting more systematic and coherent use of Sport for Development and Peace activities, especially in conjunction with efforts to achieve the Millennium Development Goals by 2015. Following the request by the General Assembly in resolution 60/9, the business plan was distributed to Member States and many partners.

III. Commemoration of the International Year of Sport and Physical Education 2005

8. Under the leadership of the Special Adviser, countless activities commemorating the International Year were held around the globe and many included practical initiatives to advance Sport for Development and Peace. Through conferences, seminars, workshops, and special sports events, the United Nations and its partners in Government, the world of sport, civil society, the media, academia and other sectors sought to educate and instil the positive values of sport across the globe. These worldwide efforts in the lead-up to and during the Year produced a number of positive results:

(a) Sport is a stronger partner in development as the Year highlighted the significant role that sport can play in achieving the Millennium Development Goals and provided momentum to efforts to mainstream sport into existing development and peace programmes by offering innovative approaches, in combination with existing efforts, to accomplish specific targets such as those concerning poverty reduction, education, gender equality, and HIV/AIDS. Many of the activities generated during 2005 are to be integrated into regular programmes;

(b) "Sport for all" is better recognized as a national priority in many countries;

(c) Sport and physical education are recognized as international priorities, and many countries increased their involvement in sports and physical education projects that contribute to education, health, development and peace in developing countries;

(d) Sport, physical education and physical activity are recognized for the important role they play in improving public health;

[1] Available at http://www.un.org/themes/sport/reportE.pdf.

(e) A significant achievement during the Year is the unanimous adoption of the International Convention against Doping in Sport by the UNESCO General Conference at its thirty-third session, on 19 October 2005;

(f) The Year has increased recognition of the potential of sport, as a universal language, to bridge social, religious, ethnic and gender divides, hence contributing to lasting peace;

(g) Sport demonstrated that it can contribute to a powerful synergy to raise public awareness and mobilize support and resources, and sport organizations and sporting goods providers embraced the multi-stakeholder approach advocated during the Year;

(h) Sport was successfully used as a mobilizing force to raise resources for relief activities for natural disasters such as the Southeast Asian tsunami in 2004 and the earthquake in Pakistan in 2005;

(i) The International Year was a springboard for launching new and strengthening existing programmes using sport and physical education to achieve internationally recognized development goals such as the Millennium Development Goals.

National dynamics during the International Year

9. Action at the country level in coordinating and publicizing commemorative activities is testimony to the success of the International Year. National focal points have been established in 70 countries, including in Albania, Algeria, Australia, Austria, Bahrain, Belarus, Bhutan, Bolivia, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, the Central African Republic, Chad, Chile, Colombia, the Comoros, Cuba, Eritrea, Ethiopia, Fiji, Finland, France, Georgia, Germany, Ghana, Greece, India, Israel, Latvia, Lebanon, Malawi, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Nauru, the Netherlands, New Zealand, the Niger, Norway, Paraguay, the Philippines, Poland, Qatar, the Russian Federation, Samoa, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, The former Yugoslav Republic of Macedonia, Tonga, Trinidad and Tobago, Tunisia, Turkey, Tuvalu, the United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland, Vanuatu and Zambia. The valuable contribution of United Nations information centres and United Nations resident coordinators in assisting in identification of a significant number of national focal points is recognized.

10. Beyond countries which established national focal points, over 55 other countries from all regions have been active. These include initiatives undertaken in: Afghanistan, Argentina, Armenia, Azerbaijan, Benin, Bosnia and Herzegovina, Botswana, Burundi, China, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark, El Salvador, Egypt, Hungary, Indonesia, Ireland, the Islamic Republic of Iran, Italy, Iraq, Japan, Kazakhstan, Kenya, Lesotho, Liberia, Liechtenstein, Madagascar, Malaysia, Mali, Montenegro, Nepal, Nigeria, Pakistan, Peru, the Philippines, Romania, Rwanda, Saint Lucia, Saudi Arabia, Serbia, Slovakia, Somalia, Timor-Leste, the Holy See, Togo, Trinidad and Tobago , Uganda, Ukraine, the United Republic of Tanzania, the United States of America, Uzbekistan, the Bolivarian Republic of Venezuela, Viet Nam, Yemen and Zimbabwe.

11. All countries are encouraged to continue activities beyond the Year to help to develop and implement sustainable sporting and physical education programmes and policies designed to respond to the specific needs and conditions of their communities.

International dynamics during the International Year

12. A number of United Nations funds, programmes, and specialized agencies used the Year to highlight and encourage the use of sport in international development programmes and projects, and the United Nations system has a lead role in policy dialogue on strategic and global levels. A series of international conferences was organized in relation with national efforts to commemorate the Year on the initiative of the Special Adviser:

- International Conference on Sport and Health (Hammamet, Tunisia, 22-24 March 2005)
- International Conference on Sport and Peace (Moscow, 3-5 October 2005)
- International Conference on Sport and Education (Bangkok, 30 October-2 November 2005)
- Second Conference on Sport and Development (Magglingen, Switzerland, 4-6 December 2005).

13. A further 20 international and 18 regional conferences were also held during the Year, which addressed issues essential to promoting the positive values of sport, including:

- International Forum on Sports and Development, Economy, Culture and with the theme "Ethics" (Bad-Boll, Germany, 13-15 February 2005)
- Round table on the Response of the World of Sport to the Indian Ocean Tsunami (Geneva, Switzerland, 14 April 2005)
- Arafura Games International Sport Conference Celebrating Sport and Culture (Darwin, Australia, 13-15 May 2005)
- Next Step II Conference — Taking Sport for Development Home (Livingstone, Zambia, 10-13 June 2005)
- Sport Summit for the Environment (Aichi/Nagoya, Japan, 30 and 31 July 2005)
- International Summit: Effecting Social Change Through Women's Leadership in Sport (Atlanta, Georgia, 20-22 October 2005)
- Sixth International Olympic Committee World Conference on Sport and Environment (Nairobi, 9-11 November 2005)
- Second World Summit on Physical Education (Magglingen, Switzerland, 2 and 3 December 2005).

14. Conference outcome documents and the results of the Year were presented at the Second Magglingen Conference on Sport and Development. This culminating event of the Year was organized by the Swiss Federal Office of Sport and the Swiss Agency for Development and Cooperation, in close cooperation with the Office of

the Special Adviser and attended by participants from 70 countries. A Call to Action was adopted, urging stakeholders to carry the momentum of the Year well into the future by actively using sport and promoting Sport for Development and Peace in their respective fields.

15. Sporting events commemorating the International Year were organized around the globe. Global communications and public-awareness activities during the Year included various tools, the creation of a United Nations website (www.un.org/sport2005) and a number of national websites dedicated to the Year; an introductory film; a fortnightly United Nations Sport Bulletin in English, Spanish and French; and an international *Toolkit: Sport for Development* available in CD-ROM and online was promoted and distributed. An unprecedented level of media attention was accorded to the issue of sport and physical education for development and peace during the Year.

16. Following the launching of the Year on 5 November 2004, the Special Adviser appointed Roger Federer, a top-ranked tennis star, and Margaret Okayo, a marathon champion, as spokespersons to promote the objectives of the Year. He also appointed the national cricket teams of India and Pakistan as spokespersons in recognition of their efforts in overcoming regional tension and encouraging peaceful relations.

17. The commemorative efforts undertaken during the Year particularly took into account certain negative aspects facing athletes, including child labour, violence, doping, early specialization, over-training and exploitative forms of commercialization, as well as less visible threats and deprivations, such as the premature severance of family bonds and the loss of sporting, social and cultural ties.

18. The International Year highlighted the importance of non-governmental organizations (NGOs) and the private sector in moving forward sport and physical education as tools for the promotion of education, health, development and peace. Governmental organizations in the field of development cooperation using sport and physical education as a tool for development and peace played an outstanding role, particularly those in Austria, Brazil, Canada, Finland, Germany, the Netherlands, Norway, Switzerland and the United Kingdom. The Year proved that international sports federations and organizations such as the International Olympic Committee, the International Football Federation (FIFA) and the International Paralympic Committee, are increasingly willing to become involved in humanitarian actions.

19. The Special Adviser's Final Report on the International Year summarizes its activities and the achievements and was presented to the Secretary-General and the President of the General Assembly at a special event at the United Nations on 3 April 2006, supported by the Swiss Agency for Development and Cooperation. The report, distributed to Member States and many partners, is available at www.un.org/sport2005. A comprehensive book on the International Year prepared by the Office of the Special Adviser will be launched during the sixty-first session of the General Assembly.

IV. The way forward

20. At the presentation of the Final Report on the International Year, the Secretary-General stated: "Our task now is to take our mission to the next stage ... and make sport an essential component of our efforts to reach the world's development goals." He concluded that the Year had charted a course for action and implementation, and that its momentum must be maintained. In this spirit, Member States, the United Nations system and other actors have initiated a number of activities.

A. Activities reported by Member States

21. To assist in preparation of the Action Plan, the Secretary-General circulated a note verbale dated 7 July 2006 to Member States requesting information on lessons learned from the International Year, obstacles encountered in national efforts to implement Sport for Development and Peace initiatives, and how sport-related activities have incorporated into strategies to achieve the Millennium Development Goals and difficulties encountered. The note verbale also asked how sport had been utilized as a tool for conflict prevention and building sustainable peace, what difficulties had been encountered, and how partnerships with sport-related organizations, the private sector and other partners could be strengthened to make better use of sport as a tool for development and peace. As at 15 September 2006, information was received from: Australia, Azerbaijan, Belarus, Bolivia, Burkina Faso, Chile, Croatia, the Czech Republic, Germany, Kazakhstan, Maldives, Mali, Mauritius, Monaco, the Netherlands, Nicaragua, Qatar, the Russian Federation, Saint Lucia, Saudi Arabia, Serbia, Thailand, Tunisia, the United Arab Emirates, and the Bolivarian Republic of Venezuela. It is emphasized that information in the present section is based only on those replies, presenting a sample of activities by Member States to build on the momentum of the International Year.

National Sport for Development and Peace activities

22. The replies show that a number of countries have established national laws, policies or strategies that advance Sport for Development and Peace and indicate their intentions to follow up on the International Year, including Belarus, Bolivia, the Czech Republic, Kazakhstan, Mauritius, Nicaragua, Qatar, the Russian Federation, Thailand, the United Arab Emirates, and the Bolivarian Republic of Venezuela. Australia, Germany and the Netherlands have incorporated sport into development cooperation activities.

Lessons learned and obstacles encountered

23. The lessons learned from efforts to implement Sport for Development and Peace initiatives reported by countries include the need for:

(a) Community ownership and sustainability rather than "one-off" projects;

(b) Sustainable strategies by Governments in development cooperation on sport;

(c) Adequate resources for Sport for Development and Peace initiatives;

(d) Reversal of the priority given to elite sport rather than community sport activities;

(e) Greater collaboration between Government, sports organizations, the private sector and NGOs;

(f) Sport organizations to promote professionalism in sport instruction;

(g) Emphasis on the value of physical education in improving health, holistic development, peace and national harmony;

(h) International organizations to help countries to improve participation in sport;

(i) Agreements to provide help countries to gain expertise and share of experience;

(j) More physical education teachers and sport instructors.

24. Obstacles encountered include:

(a) A lack of adequate resources, and in some cases competition among stakeholders for limited funding;

(b) Insufficient monitoring and evaluation to gauge the effectiveness of programmes;

(c) A lack of awareness of the positive benefits of sport to encourage greater public participation;

(d) The negative impact of electronic games, Internet facilities, and virtual amusements on youth participation in sport;

(e) The increasing costs of participating in sport and excessive focus on sport for the talented;

(f) Regional imbalances in sport programmes;

(g) In schools, a lack of capacity among teachers and principals to introduce effective physical education curricula, and a lack of sports and physical education infrastructure.

Integration of sport into strategies to achieve the Millennium Development Goals

25. A number of replies indicated that sport contributes to the overall pursuit of the Millennium Development Goals, and others more broadly endorsed the role of sport in fostering development, including Azerbaijan, Bolivia, the Czech Republic, the Netherlands, Saint Lucia, Tunisia and the United Arab Emirates. Replies received also indicated sport activities that contribute to the achievement of specific Goals.

Goal 1: Eradicate poverty

26. Bolivia and Burkina Faso seek to create new economic and employment opportunities through sport. Germany assists projects for at-risk children in several countries. Monaco assists two countries with sport programmes, and plans participation in a United Nations Development Programme (UNDP) sport programme for at-risk youth in slum areas.

Goal 2: Achieve universal primary education

27. Azerbaijan uses sport events for school children to promote interest in education. The South Pacific Sport Programme of Australia encourages children in Pacific Island countries to stay in school. Burkina Faso plans to include physical education in primary and secondary school. Kazakhstan makes physical education in school a priority, and Mauritius includes physical education and sport in school activities. Nicaragua is improving the quality of physical education, and the Bolivarian Republic of Venezuela launched a national campaign in 2004 for physical education in schools. Tunisia will make physical education in schools compulsory by 2009, and Thailand includes physical education in schools in its "sport for all" strategy for 2005-2008.

Goal 3: Promote gender equality and empower women

28. In Azerbaijan, sport activities are a part of the national policy on gender equality. The assistance of Australia to a sport programme in the region facilitates women's inclusion. Sport organizations in Burkina Faso are increasingly including competitions for women. Sport policies of the Czech Republic sport promote gender equality. Germany has supported sport programmes for girls in Afghanistan. Mauritius has a school programme to encourage girls to practice sport, and Tunisia recognizes women's right to participate in sport as a part of its "sport for all" policy.

Goal 4: Reduce child mortality

29. The Bolivarian Republic of Venezuela includes physical activities in programmes to promote child health.

Goal 5: Improve maternal health

30. Physical activity for maternal health is a part of the national sport programme in the Bolivarian Republic of Venezuela.

Goal 6: Combat HIV/AIDS, malaria and other diseases

31. Australia assists sport programmes in several countries that deliver HIV/AIDS prevention messages. Sport is used in Burkina Faso to promote HIV/AIDS awareness. The Netherlands assists projects of the NGO Right to Play and coach-to-coach projects that teach HIV/AIDS prevention in a number of countries. The Bolivarian Republic of Venezuela uses sport in a programme to prevent the spread of infectious diseases, including HIV/AIDS.

Goal 7: Ensure environmental sustainability

32. The Burkina Faso National Olympic and Sport Committee carried out a tree-planting project to combat desertification.

Goal 8: Develop a global partnership for development

33. Australia, Germany and the Netherlands use sport in development cooperation to help achieve the Millennium Development Goals. The Burkina Faso Ministry of Sport and Leisure, and sport federations, cooperate with partners from the north and south. Nicaragua and Thailand use sport as part of regional development efforts.

34. Replies also indicate other positive contributions of sport, including in programmes to assist refugee and internally displaced children, promote social integration, assist recovery from natural disasters, aid national campaigns against smoking and drug addiction, and for inclusion of people with disabilities. A difficulty encountered was the challenge to ensure that sport programmes are of the highest quality and adapted to communities' needs.

Sport for peacebuilding and conflict prevention

35. Replies indicate that many countries view sport as a valuable tool in efforts to strengthen national unity and solidarity among regions and population groups, including Azerbaijan, Bolivia, Burkina Faso, Chile, Croatia, Germany, Kazakhstan, Mauritius, Monaco, the Netherlands, Nicaragua, Saint Lucia, Tunisia, Thailand, the United Arab Emirates and the Bolivarian Republic of Venezuela. Sport is also seen as contributing to international peacebuilding and conflict prevention. Difficulties encountered were the need to evaluate programme effectiveness, and the mobilization of funds.

Strengthening partnerships

36. A number of replies indicate the vital role of partnerships with sports organizations, private sector partnerships and other organizations can play to make better use of sport as a tool for development and peace. These countries are Australia, Azerbaijan, Bolivia, Burkina Faso, Germany, Mauritius, the Netherlands, Saint Lucia, Thailand, Tunisia and the United Arab Emirates.

B. International activities and initiatives

37. The Sport for Development and Peace International Working Group, whose members include representatives of national Governments from the global north and south, the United Nations system and civil society organizations, issued a preliminary report in June 2006[2] examining diverse national approaches to Sport for Development and Peace. The report encourages its country members "to harness and integrate the tremendous power of sport into broader national development and peace strategies". The report analyses current Sport for Development and Peace practices in 13 countries: Australia, Austria, Azerbaijan, Brazil, Canada, Ghana, the Netherlands, Norway, Sierra Leone, Switzerland, the United Republic of Tanzania, the United Kingdom, and Zambia. Among the report's key findings are the need to position sport as a low-cost, high-impact tool to achieve development aims, in particular the Millennium Development Goals, and that sport and physical activity programmes need to be inclusive, with universal access promoted, including for women and girls and people with disabilities. The report also found evidence of strong momentum among developing countries in favour of Sport for Development and Peace.

38. The Secretary-General, with his Special Adviser, met for the first time with the leaders of the International Olympic Committee in January 2006 to strengthen cooperation in using sport as a tool to reduce tension in areas of conflict. It was agreed that the United Nations system should cooperate with national Olympic

[2] *Sport for Development and Peace: from Practice to Policy*, available at http://www.iwg.sportanddev.org.

Committees to ensure that sport is incorporated to a greater degree in educational curricula. The International Olympic Committee collaborates with several United Nations agencies, including UNAIDS on HIV/AIDS awareness and prevention activities; the United Nations Environment Programme (UNEP) on a "Green Games" project for environmentally sustainable Olympics; the Office of the United Nations High Commissioner for Refugees (UNHCR) on sports equipment and activities for refugee camps; and with the International Labour Organization (ILO) on youth sport programmes in Albania, El Salvador and Mozambique.

39. Noting the call by the General Assembly in its resolution 60/8 of 3 November 2005, for observance of the Olympic Truce during the 2006 Winter Games in Turin, a message from the Secretary-General of 10 February 2006 urged that athletes participating in the Games be afforded safe passage, and that all engaged in hostilities respect the truce.

40. The Special Adviser is cooperating with the Under-Secretary-General for Peacekeeping Operations in a partnership with the IOC begun in 2006 to involve national Olympic Committees and other sport organizations in countries where the Department for Peacekeeping Operations has missions in sport for peacebuilding activities with other United Nations partners. In the first initiative, United Nations peacekeepers and the International Olympic Committee held Peace Games in Kinshasa, in August 2006. Similar events are planned in other parts of the country, and in Liberia and Côte d'Ivoire. A number of peacekeeping missions use sports activities, according an inventory initiated by the Special Adviser and the Under-Secretary-General for Peacekeeping Operations.

41. The United Nations Environment Programme worked closely with the International Olympic Committee and the Turin Olympic Organizing Committee to make the 2006 Winter Olympic Games environmentally sustainable. For example, the HEritage Climate TORino (HECTOR) project was designed to make the Games carbon neutral by supporting forestry, energy efficiency and renewable energy schemes to offset the estimated 100,000 tons of carbon dioxide generated during the Games. UNEP has entered into a similar partnership with the Beijing Organizing Committee for the 2008 Olympic Games.

42. The World Economic Forum 2006 in Davos, Switzerland, for the first time brought together leaders from the world of sport to discuss sport's role in improving the state of the world and to plan new initiatives. The Secretary-General highlighted sport's contributions to development and peace at the event. The sport leaders reaffirmed their commitment to improving the state of the world through sport and agreed to create a communications platform to present Sport for Development and Peace success stories and compile and distribute of evidence on the benefits of participation in sports, studies of best practices, and statistics and facts about the sports industry.

43. The Secretary-General, with his Special Adviser, also met with the leaders of FIFA in January 2006. There was agreement that football has a great capacity as a catalyst to assist United Nations activities, such as fighting poverty, combating HIV/AIDS, promoting peace, and bringing people together. For the 2006 FIFA World Cup in Germany, a joint statement by the Secretary-General and the President of FIFA cited football's potential to improve the world, and an op-ed by the Secretary-General on football's positive powers was carried in 72 newspapers in 42 countries. At the 2006 World Cup, the Secretary-General called the 2010 FIFA

World Cup in South Africa a major opportunity to develop sport in Africa. For the South Africa event, FIFA is setting up the "Win in Africa ... With Africa" programme.

44. During its Presidency of the European Union in the beginning of 2006, Austria promoted Sport for Development and Peace, emphasizing that sport can help meet global challenges such as armed conflict and achieving the Millennium Development Goals.

45. The International Disability in Sport Working Group was formed by representatives from 15 organizations in January 2006 to advance the human rights of people with disabilities relating to sport, monitor the status of these rights worldwide, support research that enhances these rights, and develop sport and physical activity programmes.

46. An ad hoc committee of the General Assembly reached agreement on a draft convention on the rights of people with disabilities, on 25 August 2006. Article 30 of the draft convention provides that States Parties shall take measures to promote participation of people with disabilities in mainstream sporting activities and to disability-specific sporting and recreational activities, and ensure children with disabilities have equal access to participation in recreation and sports, including those activities in school. The draft convention will be presented to the General Assembly for adoption at its sixty-first session.

47. The Group of Friends of Sport for Development and Peace was initiated with the support of the Special Adviser by the Government of Switzerland among Permanent Representatives to the United Nations in New York in January 2005. Co-chaired by the Permanent Representatives of Switzerland and Tunisia, this intergovernmental platform encourages Member States to follow up on the International Year and promote integration of sport into international cooperation and national development policies through the implementation of relevant United Nations resolutions. The open-ended group has expanded to include Permanent Representatives from 25 Member States.

48. With youth as one of the greatest beneficiaries of the effects of sport, the United Nations New York Office of Sport for Development and Peace has organized a series of Youth Leadership Summits to highlight the use of sport as an entry point for mobilizing youth to bolster efforts to achieve the Millennium Development Goals. The Pan-African, Pan-Asian and Latin America and Caribbean Youth Leadership Summits were held in Dakar in June 2004; Hiroshima, Japan, in September 2004; and Belo Horizonte, Brazil, in May 2005, respectively. The second Pan-African Youth Leadership Summit was hosted by Morocco in August 2005. The regional summits culminate in the United Nations Global Youth Leadership Summit in New York at the end of October 2006.

49. The New York Office is highlighting sport's role in combating malaria, and at the request of the Secretary-General helped to organize the United Nations sixtieth Anniversary Concert entitled "United against Malaria" in October 2005 in Geneva. Initiatives in 2006 have included a "Dunk Malaria" event with the Hedge Funds vs. Malaria organization in cooperation with the New York Knicks basketball team, and a press trip to the United Republic of Tanzania organized with the National Association of Black Journalists, the United Nations system and other partners.

50. The fourth World Conference on Women and Sport, held in Kumamoto, Japan, from 11 to 14 May 2006, was organized by the International Working Group for Women and Sport and concluded with the Kumamoto Commitment to Collaboration[3] on realizing gender equality in and through sport.

C. Communications and outreach

51. Internet-based tools, such as the Sport and Development International Platform, available at: www.sportanddev.org and supported by the Swiss Agency for Development and Cooperation, provides a common working framework that facilitates international cooperation.

52. The United Nations Sport Bulletin, produced by the New York Office on behalf of the United Nations Communications Group Working Group, provides updates on United Nations sport-related activities. The publication serves as a communication tool for the United Nation system and external partners in Sport for Development and Peace.

D. United Nations activities

53. During 2006, United Nations agencies, funds and programmes have carried out a broad range of activities that have helped build on the momentum of the International Year. Such initiatives are, however, at times ad hoc, informal and isolated, and further steps can more fully integrate sport in the development agenda.

54. The Food and Agriculture Organization of the United Nations (FAO) seeks to involve well-known sports personalities, including football stars and other FAO Goodwill Ambassadors, in raising awareness and mobilizing public generosity about hunger prevention and alleviation. FAO also works with member countries to organize sporting and cultural events in support of its TeleFood campaign. The campaign has generated close to US$ 19 million in donations and funded more than 2,000 projects in 127 countries.

55. The ILO/Universitas programme published *Beyond the Scoreboard: Youth employment opportunities and skills development in the sports sector*[4] in 2006, a book which examines how youth leadership and skills development can be fostered through sport. The programme has a new initiative with 77 italian academies to review university curricula around decent work and youth employment, using sport as an entry point for youth skills development and training. ILO adopted the theme of women and sport for its 2006 celebration of International Women's Day, and activities included the award ceremony of the International Olympic Committee Women and Sport Trophy.

56. The Italian National Committee for the United Nations Children's Fund (UNICEF) partnered with the Torino Organizing Committee for the XXth Winter Olympic Games and the TIM mobile phone company to raise funds for UNICEF immunization programmes in the Sudan, and a related project sold Italian handmade rag dolls. The initiative raised over 500,000 euros.

[3] Available at www.iwg.gti.org/pdfs/kumamotocommitment.pdf.

[4] Giovanni di Cola, editor, The Brookings Institution Press, Washington, D.C., 2006.

57. UNICEF joined with FIFA during the 2006 World Cup in the Unite for Children, Unite for Peace campaign, which included public service announcements featuring leading football players and a manual for players and coaches designed to combat violence and discrimination, particularly against girls. The National Basketball Association and UNICEF joined forces in support of Unite for Children, Unite against AIDS. The partners launched a multilingual global HIV/AIDS awareness public service announcement featuring 10 star players.

58. The UNDP Small Arms Control Programme in Liberia has implemented a series of Community Arms Collection for Development pilot projects, with soccer an important element. In partnership with Mercy Corps, UNDP facilitated donation of in kind support to aid to 564 soccer clubs in 21 districts in Banda Aceh, Indonesia, as part of a broader effort to rehabilitate the athletic infrastructure badly damaged in the December 2004 tsunami disaster. The Espaces Tadamoune (Spaces of Solidarity) programme by UNDP in Morocco, in partnership with the Maroc Jeunesse Initiative and Development Foundation and the national sports sector, aims to reduce youth crime and unemployment in Casablanca through sports training and counselling, leading to job placements. A UNDP seminar in Rwanda on "Using Sport to Achieve Rwanda's Millennium Development Goals" in July 2006 drew participants from the Government, civil society, sporting federations and other sectors.

59. UNESCO has made its Sector of Social and Human Sciences responsible for the Physical Education and Sport Programmes to better articulate a new sport for peace and social development policy. The Sector organized events in July 2006 during the celebration of the organization's sixtieth anniversary. The Intergovernmental Committee for Physical Education and Sport in 2006 decided to develop a workplan to strengthen its role in the promotion of physical activity and sport. UNESCO reports that as at 1 September 2006 the following countries had ratified, accepted or acceded to the International Convention against Doping in Sport: Australia, Canada, the Cook Islands, Denmark, Iceland, Jamaica, Latvia, Lithuania, Mauritius, Monaco, Nauru, New Zealand, Nigeria, Norway, the Seychelles, Sweden, and the United Kingdom.

60. UNHCR launched the "ninemillion.org" campaign in July 2006 to assist the 9 million refugee children worldwide through education and sports activities with support from corporate partners, including Nike and Microsoft. Nike also helped UNHCR to create volleyball uniforms adhere to the traditional dress code and allow freedom of movement for Somali girls in three refugee camps in northern Kenya.

61. The United Nations Human Settlements Programme (UN-Habitat) and the International Association of Sports and Leisure Facilities are preparing a plan of action to promote recreation facilities worldwide, especially in developing countries. In Nairobi, a UN-Habitat Safer Public Space campaign uses sport to help young people to gain access to the city's public open space. UN-Habitat and the United Nations Federal Credit Union have launched the Kilimanjaro Initiative, an annual mountain climb to enhance self-esteem among youth from slums in Dar es Salaam and Nairobi.

62. The United Nations Office of Drug and Crime and the Qatar National Olympic Committee have set up the Global Sport Fund against Drugs. The fund will give grants, provided by Qatar, to NGOs worldwide to sponsor events, youth camps and exhibitions and to hold training seminars for coaches and young people.

63. United Nations Volunteers joined with the Turin 2006 Non-Profit Coordination and Ideal Solidale to host a forum on volunteerism and promotion of human rights during the 2006 Winter Olympic Games. More than 20,000 volunteers were part of the Volunteer Programme.

64. The World Health Organization (WHO) fourth International Workshop on Physical Activity and Public Health in January 2006 aimed to increase countries' capacity to raise awareness about the importance of physical activity and increase participation in physical activities and "sport for all". The 2005 WHO global report *Preventing chronic disease: a vital investment*[5] highlights physical inactivity as a major health-risk factor.

V. Partnerships and resource mobilization

65. The 2003 report of the United Nations Inter-Agency Task Force on Sport for Development and Peace[1] recommended that "programmes supporting Sport for Development and Peace need greater attention and resources by Governments and the United Nations system". As noted above, some Governments face challenges in increasing capacity of sport initiatives and finding resources for that priority.

66. The General Assembly in its resolution 60/9, invites Member States, the United Nations system, international sport bodies and sport-related organizations to promote implementation of partnership initiatives and development projects. Partnerships have proven a useful approach for advancing and coordinating Sport for Development and Peace activities and can be a tool for resource mobilization. Partnerships can also lay the groundwork for cost-effective integration of Sport for Development and Peace into national development policies and programmes.

67. United Nations agencies, funds and programmes are increasingly forging partnerships for sport-related initiatives. The International Year created greater awareness of the value of such partnerships and their mutually beneficial synergy, and the Special Adviser's Office of Sport for Development and Peace has forged partnerships with Governments and a number of private sector organizations and NGOs.

68. By resolution 60/9, the General Assembly invited Member States to provide voluntary contributions to ensure adequate execution of and follow-up to the activities being implemented by the Special Adviser's Office of Sport for Development and Peace. In that regard, the Swiss Agency for Development and Cooperation has supported the work of the Geneva Office, and UNDP has supported the New York Office. A trust fund is being established with the assistance of UNDP to sustain the work of both offices through voluntary contributions.

[5] Available at http://www.who.int/chp/chronic_disease_report/en/.

VI. United Nations Action Plan on Sport for Development and Peace

69. The international community is committed to the Millennium Declaration and to achieving the Millennium Development Goals by 2015, and the International Year demonstrated the power of sport in its many dimensions and worldwide appeal to make significant contributions to development and peace. The Action Plan presents a framework to enable the United Nations system, Member States, the world of sport and other partners to build on the achievements of the Year. It is a strategy to better integrate sport into the development agenda; incorporate sport in programmes for health, education, development and peace; utilize sport as a tool to achieve the Millennium Development Goals; and focus greater attention and resources on Sport for Development and Peace.

70. Participation in sport is recognized as a human right, and "sport for all" should be the basis for the systematic use of Sport for Development and Peace. Stakeholders are urged to establish clear linkages between the opportunity to participate in sport and the achievement of the Millennium Development Goals and the broader goals of sustainable development and peace.

Time frame

71. Maintaining the momentum generated by the International Year is vital, and the Action Plan therefore covers the next three years. The aim is to encourage the United Nations and its partners to move from awareness to greater implementation and action.

Lines of action

72. All stakeholders are urged to meet the challenges below and work along these lines of action to integrate Sport for Development and Peace in the development agenda at every level:

1. Global framework for Sport for Development and Peace

Challenge: Globally agreed development goals provide a common denominator and common agenda for stakeholders to work together and contribute towards advancing a global framework for Sport for Development and Peace.

Action: Enhance cooperation and coordination to create a common vision of the role of sport in the service of development and peace, to establish a knowledge network, define priorities and further raise awareness. Develop and promote exemplary Sport for Development and Peace initiatives where the mainstreaming and replication will provide the most benefit to the achievement of development objectives.

2. Policy development

Challenge: Sport for Development and Peace strategies need to be explicitly incorporated into national and international development plans and policies and vice versa, with enhanced cooperation and coordination among all stakeholders.

Action: Promote and support the systematic integration and mainstreaming of Sport for Development and Peace as an instrument in development plans and policies.

Promote the principle of "sport for all" and develop inclusive sports policies. Strengthen and invest in sport and physical education and integrate sport, physical activity and play in public health and other relevant policies.

3. Resource mobilization

Challenge: Scaling up of Sport for Development and Peace initiatives for the achievement of the Millennium Development Goals and other development objectives requires resource mobilization and creative partnerships.

Action: Enhance coordination to promote innovative funding mechanisms and multi-stakeholder arrangements on all levels, including the engagement of sport organizations, civil society, athletes, and the private sector.

4. Evidence of impact

Challenge: Mainstreaming Sport for Development and Peace in national and international programmes and policies requires comprehensive monitoring and evaluation.

Action: Develop and promote common evaluation and monitoring tools, indicators and benchmarks based on commonly agreed standards.

Action points

73. The following action points are aimed at specific sectors and stakeholders to maximize the positive impact of sport.

Member States

74. Responsibility for the achievement of the Millennium Development Goals rests first and foremost with Governments. The Action Plan aims to help to realize the full potential of sport as a powerful, cost-effective way of supporting Member States in the attainment of the MDGs by 2015 and the broader goals of sustainable development and lasting peace.

- Governments are encouraged to: implement the principle of "sport for all" through inclusive and coherent legislation and policies, including measures to promote participation of people with disabilities; involve all stakeholders in their coordination and implementation; establish a viable sport sector that is managed by professionals and experts trained in Sport for Development and Peace; strengthen and invest in sport and physical education in schools and educational systems; create an effective support system for programmes preventing negative influences in sport; and integrate sport, physical activity and play in public health and other relevant policies as a national priority.
- The Group of Friends of Sport for Development and Peace is encouraged to continue to motivate Member States to integrate sport in their international cooperation and development policies through implementation of relevant United Nations resolutions. The Group is encouraged to share national experiences and best practices, reach out to the private sector and propose research and development initiatives for the United Nations system in joint ventures with the private sector and other partners.

- Relevant Government agencies are encouraged to value investment in sport development and infrastructure, including the basic institutions of sport, playing areas, skilled volunteers and provision of funds to assist local initiatives. Governments are also encouraged to incorporate sport in Poverty Reduction Strategy Papers.

- Governments and national organizations are encouraged to support young talented athletes to realize their full potential and protect them from exploitation. Athletes who compete at the international level help to foster national unity, promote intercultural dialogue, inspire younger generations to excel and create a sense of national pride.

- Governments are encouraged to engage in international initiatives and partnerships to advance Sport for Development and Peace.

- Governments are encouraged to initiate sport programmes to promote gender equality and the empowerment of women.

- The continued establishment and development of sport-related national focal points, committees, and other multi-stakeholder mechanisms at the national level for sustainable initiatives are encouraged. National focal points identified during the Year and afterwards by their Government are requested to collaborate with the Special Adviser to provide a framework within which national, regional and international contacts and coordination may be fostered.

- National committees are encouraged to engage and include a broad range of country-level actors, ensuring gender balance, including: local governments, national Olympic committees, sports federations and clubs, athletes, the private sector, interested academic circles, United Nations country teams and the NGO community.

The United Nations system

75. The United Nations system is increasingly including sport in its programming and advocacy. New efforts are called for, however, to realize sport's full potential to contribute to health, education, development and peace.

- Sport should be incorporated into United Nations country programmes where appropriate, both in sport-specific activities and to strengthen other programmes, and on a similar basis into common country assessments and United Nations Development Assistance Frameworks, to establish a common Sport for Development and Peace framework to utilize sport effectively in the achievement of the Millennium Development Goals.

- Partnerships within the United Nations system may be facilitated by the United Nations Communications Group Working Group, as a means to provide United Nations system-wide coherence and collaboration and provide a platform for external partners to engage with the United Nations system.

- United Nations agencies, funds, and programmes are encouraged to integrate sport and physical education into their policies and long-term plans.

- The United Nations system is encouraged to seek new and innovative ways to use sport for communication and social mobilization at the international, national and local levels.

National and international stakeholders

76. Stakeholders across a broad spectrum are advancing Sport for Development and Peace, and are called upon to expand their activities and increase their cooperation.

- The Sport for Development and Peace International Working Group is encouraged to continue to articulate and promote the adoption of policy recommendations that support the integration of sport into national and international development strategies and programmes.
- All stakeholders, including media, academia, civil society, and sport organizations, are encouraged to support capacity-building and education programmes to enhance awareness of best practices in the use of Sport for Development and Peace and the relationship between sport and its use as a development and peacebuilding tool.
- **Bilateral development agencies** are called upon to integrate sport in development cooperation policies and programmes; and implement and evaluate projects and programmes.
- **Sport organizations** are urged to integrate and implement gender mainstreaming and sustainable development principles in their policies, programmes and projects. Local and regional sport organizations need to better advocate, organize and coordinate sport events, share resources, provide logistical and moral support and ensure greater participation.
- **Athletes** are encouraged to act as role models and use their influence and experience to advocate for development and peace.
- **Health organizations** should promote use of sport to raise the quality of life, reduce expenditure on health services and increase productivity.
- **Armed forces** are encouraged to use sport to promote friendship and for building peace and security.
- **Media** are encouraged to adopt editorial strategies that ensure the coverage of social and political aspects of sport; train journalists; and raise awareness of the achievements and potential of Sport for Development and Peace.
- **NGOs** are encouraged to implement projects that demonstrate the potential of Sport for Development and Peace; transfer experience and knowledge; engage other members of civil society; support the work of the national focal points or committees; improve channels of communication among groups active in sport for development; and organize or host field visits and media trips to promote their work.
- **Private sector sports companies and sports industry organizations** are encouraged to take a lead role in Sport for Development and Peace policy dialogues; raise the awareness of international actors and other partners; strengthen networks and enhance coordination; and carry out and evaluate projects and programmes. They are requested to address social and environmental impacts of operations and across supply chains; support and invest in sport-based development activities; bolster partnerships and inform the public about the values of sport; and incorporate the theme of "development through sport and physical education" at conferences and other events.

- **Academic and research institutions**, including the United Nations University, are encouraged to develop collaborative agendas on Sport for Development and Peace, including the documentation, analysis and validation of experiences, and development of instruction, monitoring and evaluation methods and instruments.

- **Internet platforms**: stakeholders are encouraged to refer to websites such as the website of the Special Adviser (www.un/org/sport2005), which serve as communication tools and provide a common framework that facilitates international cooperation. Stakeholders are encouraged to support and contribute to these essential platforms.

Strategic partnerships and resource mobilization

77. *Programme implementation*: Many Sport for Development and Peace projects within the United Nations system are based on innovative partnerships. To advance these:

- Planning for development programmes is encouraged to include sport organizations, and development organizations and Governments are encouraged to utilize Sport for Development and Peace policies.

- Government, sport organizations, and implementing organizations in development are encouraged to strengthen ties.

78. *Resource mobilization*: Partnerships provide a strategic approach to resource mobilization, both for and through sport. Resources can be mobilized by engaging sport organizations and athletes, and through partnerships with the private sector.

- Stakeholders are encouraged to identify appropriate partners in the field of development and peace and incorporate sport programmes into programming. Governments, the United Nation system and partners, including the private sector, sport organizations and civil society are urged to make available resources for Sport for Development and Peace initiatives.

79. *Advocacy*: Partnering with the world of sport provides innovative ways to communicate key development and peace messages to diverse groups and to effectively mobilize society around vital issues through sport.

80. Partnerships within the United Nations system can be facilitated by the United Nations Communications Group Working Group as a means to build United Nations system-wide coherence and collaboration and provide a platform for external partners to engage with the United Nations system.

81. National committees and Governments are encouraged to facilitate partnerships among sport organizations, NGOs, media, the private sector, research institutions, athletes, the armed forces and other stakeholders.

Peacebuilding through sport

82. Sport has the power to bring people together, bridge differences, and promote communication and understanding. Nonetheless, sport alone cannot foster enduring peace. Supporting factors such as an interest in peace among different groups, media involvement, strong civil society participation and dedication by sport organizations are needed for sport to be an effective vehicle of peace.

- Governments, the United Nations system, and sport organizations are encouraged to use sport as a means to build peace through friendly competitions, support for advocacy campaigns and community programmes, and recognition of prominent athletes as positive role models.

- Parties with a history of conflict are encouraged to demonstrate positive interest in peacebuilding initiatives, the media are encouraged to disseminate information on sport activities for peace, and civil society and sport organizations are encouraged to be proactive in organizing peacebuilding initiatives through sport.

- Research organizations and academia are requested to study the use of sport as a vehicle of peace and present findings to encourage peacebuilding through sport.

Coordination through the offices of the Special Adviser

83. Since his appointment, the Special Adviser to the Secretary-General on Sport for Development and Peace and his Office of Sport for Development and Peace have made significant contributions towards the establishment of a common framework that draws together sport-related initiatives and partners across sectors. The United Nations Communications Group Working Group, the Group of Friends, the Sport for Development and Peace International Working Group and other actors within the institutional framework for Sport for Development and Peace play an important role in those efforts.

- It is recommended that the Special Adviser continue his leadership role in fostering partnerships between the world of sport and the development community and promoting a common framework in the United Nations system and with Member States and partners.

- Bearing in mind General Assembly resolution 60/9, Member States are urged to provide voluntary contributions to the United Nations Office of Sport for Development and Peace, in Geneva and in New York.

- The various actors within the institutional framework for Sport for Development and Peace are encouraged to continue to generate support, both in terms of priority and resources, for such activities among the United Nations system, Governments and sport-related organizations.

- The Special Adviser is encouraged to continue to coordinate the collection of information on United Nation sports initiatives, publish news on a regular basis, and support information-sharing on the Internet and other vehicles.

- The Special Adviser is encouraged to continue to support the Secretary-General and the United Nations Secretariat in operational activities to use sport as a tool for development and peace.

- Governments, sports federations, intergovernmental organization, NGOs, the private sector and others are encouraged to cooperate with the Office of Sport for Development and Peace, the United Nations Communications Group Working Group, the Group of Friends and other actors within the institutional framework.

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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office, including technical cooperation, in Nepal

Note by the Secretary-General*

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the United Nations High Commissioner for Human Rights on the human rights situation and the activities of her Office, including technical cooperation, in Nepal, submitted in accordance with Commission on Human Rights resolution 2005/78.

* The submission of the report is delayed in order to reflect the most updated information and owing to consultations.

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Summary

On 16 September 2005, the High Commissioner for Human Rights submitted to the General Assembly her report on the human rights situation and the activities of her Office, including technical cooperation, in Nepal (A/60/359) covering the period from May 2005 until August 2005. A subsequent report to the Commission on Human Rights covered the period up to January 2006 (E/CN/2006/107). This latest report looks at improvements in the human rights situation in Nepal since the April 2006 protests, as well as ongoing violations. Many challenges remain with regard to upholding and strengthening respect for human rights which must be addressed in the short and long term, including impunity, deep-rooted discrimination and other abuses against vulnerable groups.

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I. Introduction

1. On 16 September 2005, the High Commissioner for Human Rights submitted to the General Assembly her report on the human rights situation and the activities of her office, including technical cooperation, in Nepal (A/60/359), which covered the period from May 2005 to 31 August. She prepared a subsequent report for the Commission on Human Rights, which covered the period up to January 2006 (E/CN/2006/107).

2. Since these last reports, there have been significant developments impacting on human rights, which were precipitated by the last stage of a protest movement launched by the Seven-Party Alliance (SPA) on 5 April 2006. The protest movement culminated in a cessation of military operations in the conflict, the restoration of democratic rights and other important political changes, as well as the re-launching of peace talks between the Government and the Communist Party of Nepal-Maoist (CPN-M). Both parties have requested the United Nations to provide assistance in the areas of management of arms and armed personnel, constituent assembly elections, ceasefire monitoring and continued human rights monitoring.

3. This report examines the protest movement's impact on human rights and the resulting political changes, as well as key human rights issues which need to be addressed in the course of the still fragile peace process. It is based on information gathered in the context of the Office of the High Commissioner for Human Rights' (OHCHR) monitoring and investigation work throughout the country, including a wide range of meetings with authorities, security forces, CPN-M, civil society, victims and families. Since the ceasefire, staff from four regional offices of OHCHR – in Biratnagar, Kathmandu, Pokhara and Nepalgunj - and its new sub-office in Dadeldura have intensified travel to many districts and villages. Overall, OHCHR enjoyed the cooperation of the authorities and CPN-M. However, OHCHR has been disappointed at the lack of response to a number of letters to the Government and to CPN-M. In addition, the Nepalese Army maintained its refusal to provide access to documents relating to military investigations and court martial proceedings into abuses. Breaking the climate of impunity in Nepal remains the single most difficult human rights challenge.

4. The report was submitted to the Government and to CPN-M on 4 September and both provided their comments.

II. Context: the April protest movement, related political developments and their impact on human rights

A. The April Protest Movement

5. On 5 April 2006, SPA launched a four-day strike, which turned into a 19-day protest movement of unprecedented proportions (known as the *Jana Andolan* or People's Movement). The Government, tried from the outset to prevent the protests, severely curtailing rights to freedom of assembly and association. A ban on public gatherings inside the Kathmandu Ring Road was declared and curfews imposed from 5 April. Similar measures were imposed in other cities. These measures were taken, according to the Home Minister, to stop CPN-M "infiltration" into Kathmandu. A subsequent CPN-M-declared ceasefire was described as "a ploy" by the Minister. Several hundred political party and civil society leaders were placed under preventive detention under the Public Security Act (PSA) (as had occurred in January - see E/CN.4/2006/107, para.79 and A/60/359 para. 15)), with many others, including juveniles, held for short periods.

6. Protests planned for January 2006 had been curtailed by curfews and arrests, but in April political party and civil society activists, along with many others, challenged the bans, taking to the streets in tens of thousands. Unlike previous SPA protests, this time there was tacit understanding with and support from CPN-M. The protests were spread throughout the country, and many leaders avoided arrest and continued to organize the protests without necessarily being present.

7. At times, security forces -- the Royal Nepalese Army (RNA, renamed the Nepalese Army on 18 May), the Armed Police Force (APF, a paramilitary police force) and the Nepal Police -- who were deployed to quell the protests, faced a difficult task of dispersing groups of violent demonstrators intent on destroying public property. Many police were injured by stones thrown by demonstrators. However, many peaceful protests were also broken up. Numerous clashes were provoked by the security forces trying to disperse demonstrators exercising their right to freedom of assembly. On the basis of its monitoring of demonstrations throughout the 19 days and subsequent investigations into 18 deaths which occurred, OHCHR concluded that all branches of the security forces were responsible for excessive use of force. More than 4,000 demonstrators were reportedly injured, many of them children. While not all injuries were due to security forces' violence, many suffered injuries from baton charges, live and rubber bullets, as well as teargas canisters fired at close range.

B. Related political developments

8. Protests continued to spread, with almost 200,000 people defying both the curfew and the ban on assemblies on 20 April 2006. SPA rejected an invitation from the King to nominate a prime minister to form a government on 21 April. On 24 April, the eve of what was likely to have been the largest demonstration in Kathmandu and amidst serious concerns as to the potential response of the security forces, King Gyanendra announced the reinstatement of the House of Representatives. On 27 April, the King appointed the unanimous choice of SPA, Nepali Congress (NC) leader Girija Prasad Koirala, as Prime Minister. The following day, the House of Representatives convened for the first time since 2002 and an SPA coalition Government was formed.

9. A major improvement in the human rights situation was observed immediately after the establishment of the new Government. The right to freedom of association, expression and assembly were largely restored, with bans on demonstrations lifted except in one area of Kathmandu. All political detainees held under PSA were released within days. CPN-M declared a three-month ceasefire on 26 April and the Government an indefinite ceasefire on 3 May. Both sides agreed on a 25-point code of conduct on 26 May. The ceasefire resulted in a complete cessation of the Nepalese Army and People's Liberation Army (PLA) offensive operations. The Nepalese Army has since limited its movements to routine patrols around barracks, to maintaining some checkpoints and some street patrols in Kathmandu. PLA has remained in CPN-M "base areas" and set up some temporary camps elsewhere.

C. Impact on Human Rights

10. The cessation of hostilities resulted in an absence of conflict-related violations, including extrajudicial executions, detention, torture and ill-treatment in army barracks of those suspected of links with CPN-M. Violations of international humanitarian law also ceased. (In March, OHCHR had published *Investigations into violations of international humanitarian law in the context of attacks and clashes between the Communist Party of Nepal (Maoist) and Government Security Forces. Findings and recommendations. January – March 2006*). The pattern of long-term disappearances which dominated previous years ended during 2005. Many prisoners held in preventive detention under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO) on suspicion of being members or sympathizers of CPN-M (see A/60/359, para. 16)) or who were facing charges were released, including many juveniles accused of belonging to CPN-M.

11. There are, however, many challenges remaining with regard to upholding and strengthening respect for human rights which still need to be addressed in the short and long term, including on-going violations and impunity, as well as deeply-rooted discrimination and other abuses against vulnerable groups such as women, children and ethnic minorities.

D. Human rights and the peace process

12. For peace to be sustainable in Nepal, human rights must underpin the peace process throughout. Talks between SPA and CPN-M have led to a series of agreements between the two parties some of which have included broad references

to human rights. In the 12-point "Letter of Understanding" adopted in November 2005 both sides expressed their commitment to "fully respect the norms and values of human rights". Two-thirds of the vaguely-worded provisions of the Ceasefire Code of Conduct refer to international humanitarian law and human rights concerns. An eight-point Agreement between the Government and CPN-M (signed on 16 June 2006) includes a broad commitment to "democratic norms and values including competitive multi-party system, civil liberties, fundamental rights, human rights, press freedom, and the concept of the rule of law". None of these agreements, however, contain specific measures to achieve these objectives nor do they include specific references to children affected by conflict.

13. The Government and CPN-M negotiation teams also agreed to form an Interim Constitution Drafting Committee (hereafter "the Drafting Committee") which became operational on 6 July 2006. After widespread protests that the six-member all-male Committee, led by a former Supreme Court Justice, was not sufficiently representative, an additional ten members (including four women and a Dalit representative) were added. Although the Interim Constitution is only to serve until a new constitution is drafted by a constituent assembly, it presents an opportunity to strengthen human rights protection. OHCHR submitted recommendations to the drafting Committee which would strengthen existing human rights provisions, regarding the right to life; retroactive criminal laws and amnesty; freedom from torture and from arbitrary arrest or detention (including disappearances); rights regarding fair trial and juvenile justice and the independence of the judiciary. The Committee also received recommendations from civil society. On 25 August, Drafting Committee submitted its draft to the parties to start discussions on remaining key issues, including the status of the monarchy, the nature of any interim government and parliament and the process leading to the formation of a constituent assembly.

14. An agreement reached on 15 June set up a 31-member Ceasefire Code of Conduct National Monitoring Committee (hereafter "National Monitoring Committee") and included a request for OHCHR to provide assistance, as well as to monitor human rights. Like the Ceasefire Code of Conduct itself, the terms of reference of the National Monitoring Committee lack clarity and specificity. The National Monitoring Committee has started to carry out field visits, but it lacks resources and will need to establish its credibility as an independent monitoring committee. A Joint Committee with Government and CPN-M representatives to which the National Monitoring Committee would report and which would be responsible for ensuring the implementation of the National Monitoring Committee's recommendations has not yet been established.

15. In addition, three other draft agreements are currently under discussion between the parties: *Agreement on the Observance of Human Rights and Humanitarian Law*, a draft *Ceasefire Agreement* and a proposal for the establishment of Local Peace Councils at district level. These drafts were prepared by a 10-party Peace Committee, established by the Government on 3 July 2006. All drafts refer to human rights and monitoring mechanisms. OHCHR submitted comments to the Peace Committee and to the two parties on 7 August, highlighting the need to clarify the mandates, powers and working procedures of the different existing or proposed mechanisms for monitoring human rights and the relationships between them, to avoid overlap and potentially competing functions. OHCHR also recommended, inter alia, that the parties ensure that any human rights monitoring mechanisms are adequately funded, with full-time investigators, and staff who are competent, impartial and independent.

16. The draft agreements recognized the role of the National Human Rights Commission without specifying responsibilities in relation to the peace process. During the reporting period, the National Human Rights Commission continued to be severely criticized by civil society because of the manner in which the Chairperson and Commissioners were appointed by the King in May 2005. Many human rights organizations expressed the view that the Commission was not independent and restricted their cooperation. The Chairperson and the Commissioners eventually resigned on 9 July 2006. According to the draft Interim Constitution, the National Human Rights Commission would become a constitutional body. In numerous meetings with Government officials, OHCHR continued to press for a transparent and consultative appointments process. It urged that commissioners should not be appointed on the basis of political party affiliation, which would undermine the independence and non-partisanship of the Commission, and that the appointments should reflect the balance of gender and ethnic diversity in Nepali society.

17. Recognizing the key role to be played by a strong, independent and effective national human rights institution, OHCHR has continued to assist the Commission during 2006. As the single largest human rights monitoring presence in Nepal, the National Human Rights Commission could play a key role in monitoring human rights aspects of the peace process and the implementation of the Ceasefire Code of Conduct.

III. Respect for international human rights and humanitarian law

A. Conduct of the security forces with regard to human rights

18. The installation of the new Government, together with the ceasefire declarations, has had a significant and positive impact on the conduct of the security forces in terms of human rights but these gains remain precarious. Institutional weaknesses, as well as the need for political will to instill professionalism based on full respect for human rights, are challenges which need to be met.

19. The role of the army--and the need to subject it to full civilian control and scrutiny--is one of the most contentious issues in the peace process and one which could have a significant impact on it being held accountable for its actions. Lack of accountability remains one of the main concerns of OHCHR with regard to the Nepalese Army. As already indicated, international humanitarian law and human rights violations by the Nepalese Army — which were principally conflict-related — have declined dramatically. Sporadic abuses, including allegations of rape or sexual violence, and the killing of a group of demonstrators in April, have been reported. OHCHR raised with the Nepalese Army its concern regarding the illegal practice of obliging individuals formerly detained in the Nepalese Army barracks to report regularly after their release. In late August, the Supreme Court was considering a petition to end these obligations and to quash any declarations signed by detainees while held by the Nepalese Army. In one isolated case, an off-duty Nepalese Army captain from the Bhairabnath Battalion led up to twenty armed soldiers in an assault on a Nepal Police station in Kathmandu on 29 July, releasing one detainee and abducting and beating three police officials. The incident was sparked by a minor traffic altercation. Two separate committees of inquiry were established to investigate the case, one under the Home Ministry, the other under the Nepalese Army. The Government informed OHCHR that the captain had been dismissed and sentenced to one year imprisonment. OHCHR has been denied access to him, in violation of its agreement with the Government. The Nepal Police launched a criminal investigation against a civilian accompanying the officer but not against the Nepalese Army captain.

20. In this transition phase, the crucial role of the Nepal Police as principal law enforcement agency has been brought to the fore, but as an institution it faces many challenges. Many police posts were destroyed or abandoned during the conflict after police were killed or threatened. Police have been redeployed to 72 posts, according to the Government, but the Nepal Police is unable or unwilling to respond to the need for re-establishing many other former police posts, often being prevented from doing so by CPN-M. The absence of effective policing in rural areas quickly emerged as a major human rights challenge in the context of the ceasefire. OHCHR prioritized the investigation of widespread reports of coercive and sometimes violent action by local CPN-M cadres aimed at maintaining "law and order". The perceived weakness and often inaction of the police facilitated the extension of CPN-M "law enforcement" activities and "people's courts" to district headquarters.

21. OHCHR has been systematically advocating for individuals held by CPN-M to be released or handed over to police. In many cases, CPN-M refused to do so. In other areas, however, it has been more open to handing over criminal suspects to the Nepal Police. At the same time, CPN-M has, at times, successfully demanded the handover of suspects from the Nepal Police or succeeded in suspending Nepal Police's investigations into certain cases. When asked directly about this pattern, local Nepal Police state that their refusal to take action against even serious abuses by CPN-M is due to their fear of what future political change may bring as well as a lack of adequate policy direction from the central level.

22. The issue of the future role of APF emerged not only from its role in April but again following excessive use of force by APF at Tatopani, Sindhupalchowk District on 30 July, when an APF revenue patrol posted at the Nepal-Chinese border confronted violent demonstrators with live ammunition, killing a bystander and wounding several others. The

Nepal Police refrained from intervening. Internal APF and Home Ministry investigations were initiated, and APF reportedly recommended disciplinary action and compensation. Beyond APF responsibility for this specific case, OHCHR is concerned that APF continues to be assigned policing functions despite a demonstrated and acknowledged lack of training to perform this role. OHCHR training for APF has addressed human rights issues, particularly regarding the appropriate use of force but the law enforcement role of APF needs further clarification.

23. The transitional period presents an enormous challenge for ensuring the protection of human rights through adequate policing and the effective administration of justice. Current indications suggest that much of the civilian population remains deprived of these fundamental public services, essential to the protection of human rights, because the state lacks the capacity or at times the will to undertake law enforcement and judicial functions, even in areas not previously controlled by CPN-M. This security vacuum risks being filled in a number of ways: through communities taking "justice" into their own hands — as has already happened in several cases with fatal consequences; through CPN-M's arbitrary and sometimes violent system of "people's justice"; through exploitation by criminal elements or organized crime groups, some of whom might be politically manipulated; and also by vigilante groups.

24. The capacity of both the Nepal Police and APF to deal with crowd control and at the same time fully respect human rights remains under intense scrutiny by OHCHR. Since April, OHCHR has documented further instances in Kathmandu where police baton charges caused head and other injuries to demonstrators. At the same time, violent protestors — including many youths — throwing stones and burning tyres, effectively brought Kathmandu to a standstill for two days on 19 and 20 August. The lack of police presence and intervention during the August protests raises serious questions about its role in maintaining law and order.

B. Detention

25. As noted above, conflict-related arrests under TADO and also political arrests under PSA have stopped since the ceasefire. The only exception under PSA was the preventive detention of the former Home, Foreign and Communication Ministers and two other former officials in May. OHCHR criticized the new Government for using the same arbitrary measures as the previous Government at a time when it should be setting new standards. The three were eventually released by court order and PSA has not been applied since. The Government has given assurances that it will not be "misused while maintaining law and order".

26. The majority of alleged members or sympathizers of CPN-M who had been held under TADO were released, but others continue to be held under common criminal charges. According to the Government, 1,082 TADO detainees were released, 692 from preventive and 390 from pre-trial detention. OHCHR had conducted a TADO review by interviewing 336 TADO detainees in private in five High Security Centres in Morang, Kaski, Kathmandu, Dang and Kanchanpur Districts. The main findings showed serious violations of the rule of law, including illegal arrests and detention, disregard for fundamental due process guarantees. Many had been tortured in army barracks before transfer to prison.

27. OHCHR is presently assessing the legality of the current detention of previous TADO detainees or other CPN-M associated detainees now held for ordinary criminal offences. It is also examining whether they might have been charged with offences which would amount to violations of humanitarian or human rights law. A few cases concern juveniles who were among some 100 children whose detention under TADO during 2005 had been documented.

28. TADO, PSA and other laws which clearly are in breach of human rights treaties, are still awaiting review, in spite of international and national appeals for their repeal or amendment. The continued absence of a fully-functioning national central detention register despite its announcement by the Government in December 2005 (see E/CN/2006/107, para. 27), as well as the lack of accurate and up-to-date record-keeping at many prisons and police stations around the country make it difficult to monitor the legal status and releases of detainees and remain issues which still need to be addressed.

29. Following the release of most TADO detainees, detainees held for common crimes around the country began protests calling for a general amnesty for all prisoners, including hunger-strikes and destruction of prison infrastructure. Five prisons closed as a result. Detention conditions are often overcrowded and inadequate. OHCHR is continuing periodic visits to ensure appropriate interventions regarding improvements in prison conditions.

30. Police detention of criminal suspects has yet to be assessed systematically by OHCHR in terms of respect for human rights of detainees, though individual cases of children and juveniles in police custody, torture and ill-treatment of criminal suspects have been documented. OHCHR also started investigating allegations of arbitrary detention, ill-treatment and two deaths in custody in national park detention facilities.

C. CPN-M and human rights

31. Following discussions with OHCHR on human rights issues, CPN-M leadership on 17 April 2006 published a statement declaring general respect for and commitment to international humanitarian law and human rights principles and norms. It further committed CPN-M to continuing its cooperation with OHCHR-Nepal.

32. After the ceasefire declaration, CPN-M established parallel structures, most notably "people's courts", in district headquarters and villages where they had previously not been present. Following a 3 July "special directive" by CPN-M Chairman Pushpa Kamal Dahal alias *Prachanda*, most of the "people's courts" stopped hearing complaints in district headquarters, including Kathmandu, but continued to function in rural areas and close to district headquarters. Many allegations of abuses by CPN-M investigated by OHCHR relate to "law enforcement" activities and "people's courts".

33. Of specific concern was a series of eight killings following actions by "people's courts" in the Central Region in May and June 2006 which were attributed directly to CPN-M cadres, or indirectly through their encouragement of villagers. Most of the victims were accused of "crimes" or "offences" and were apparently under CPN-M "investigation" at the time they were killed. OHCHR concluded that CPN-M cadres encouraged and actively participated in the assaults by villagers that led to the death of six men in four incidents. In the other two cases, the victims were killed in CPN-M custody. Although CPN-M initially denied responsibility, in some cases local CPN-M leaders have since accepted responsibility. This pattern ceased after CPN-M national leadership gave assurances to OHCHR that such killings are not CPN-M policy, and after OHCHR had made its concerns public.

34. Nevertheless, OHCHR is investigating five new deaths reported between May and September 2006 -- in Ilam, Banke, Bardiya, Lamjung and Tanahun Districts -- attributed either to CPN-M or former CPN-M cadres. It was also investigating five alleged suicides of individuals previously abducted by CPN-M. OHCHR continues pressing for full investigations into all the deaths.

35. Since the ceasefire declaration, OHCHR confirmed almost 200 reports of abductions allegedly carried out by CPN-M, many of them in the context of CPN-M "law enforcement" activities through the "people's courts". A large number of the victims were released. The whereabouts of several others remained to be clarified. In several cases, OHCHR confirmed allegations of ill-treatment, including severe beatings, either during the abduction or in captivity. Reasons for the abductions included robbery, murder, rape and posing as CPN-M to collect "donations" or "taxes". A number were accused of having violated certain cultural traditions, mostly by engaging in "illicit sexual relations".

36. Victims also included at least 16 political party members though the abduction was not necessarily related to their party affiliation. Fourteen people were reportedly targeted for their affiliation with the previous regime. In four cases, CPN-M alleged that the abductees were army informants. Some were former members of CPN-M abducted for unclear reasons. At the same time, it would appear that some businessmen and others were abducted to pressure them to pay "fines" which appeared to amount to extortion.

37. A significant number of those abducted were reportedly accused of gender-based violence. OHCHR is also looking into the manner in which "people's courts" treat victims of sexual violence. In one group of cases investigated in early

2006, the "people's court" compelled female victims to provide detailed accounts of the violence perpetrated against them in front of large crowds, as well as in the presence of the alleged perpetrators.

38. Initially after the ceasefire, the relationship between Government local administrations, including the security forces, and CPN-M was characterized by mutual distrust. Although the relationship between CPN-M and the Nepal Police differs significantly from district to district, this initial trend is evolving. There was an increase in the number of suspects captured by CPN-M being handed over to the Nepal Police. In some districts, meetings developed between local administrations and CPN-M to resolve tensions and conflicts related to CPN-M activities, including in relation to "people's courts".

39. OHCHR has raised its concerns regarding the use of "people's courts" directly with CPN-M and publicly, indicating that abductions, related investigations and punishments (often forced labour) fail to provide minimum guarantees of due process and fair trial or the right to physical integrity, and therefore violate international human rights standards. It has consistently called on CPN-M to either release all those held or hand them over to the police. The strengthening of the State law enforcement system and administration of justice will be crucial to convincing local populations that State authorities are able to maintain law and order and deliver justice.

40. OHCHR has also received reports of individual abductions of children, often on suspicion of involvement in crime. Some 30 children were abducted accused of robbery, rapes or murder. Large-scale group abductions have decreased possibly due to the fact that CPN-M can conduct activities openly.

41. Nevertheless, children were still collectively taken for short periods of time by CPN-M cadres or members of its student union organization, the All Nepal National Independent Student Union – Revolutionary (ANNFSU- R) to take part in mass political gatherings. In Kathmandu, on several occasions, thousands of children were taken from schools to participate in programmes organized by ANNFSU-R.

42. Despite the ceasefire, dozens of children – including some as young as 12 – were reportedly recruited to actively take part in PLA and militia activities, in violation of international principles. In August and September 2006, such allegations were received from Chitwan, Dolakha, Gorkha, Ilam, Nawalparasi, Nuwakot, Ramechhap, Kaski, Baglung, and Kathmandu Districts. In all instances, CPN-M insisted that recruitment was voluntary.

43. In the context of the peace process, including discussions regarding management of arms and armed personnel, the withdrawal of children from armed forces and armed groups is a key issue. Children support PLA in various roles, through direct participation or activities organized through students, women's or cultural groups as well as the militia. Lack of access and the systematic denial by CPN-M that it recruits or uses children, makes it difficult to assess the numbers involved, though through increased access more information is becoming available. CPN-M leadership acknowledged, in a meeting with OHCHR and UNICEF on 24 August, that there were thousands of children in the CPN-M "for good reasons". CPN-M also agreed to child protection agencies undertaking assessment missions for the first time.

44. OHCHR has continued to receive many reports that members of CPN-M are taking "taxes" or "donations" from local communities, government officials, NGOs, schools, business people and teachers. OHCHR has been particularly concerned when individuals were abducted or threatened with abduction if they refused to pay. In cases where there is no explicit threat and individuals appear to comply and pay "donations" or "taxes" without question, the threat is often implicit given the patterns of abuses in other cases.

On 11 September 2006 OHCHR submitted a report of its concerns to CPN-M, calling on them to ensure full compliance with the leadership's 2 September directives to stop abductions, killings, beatings and forced donations.

D. Abuses by other armed groups

45. In the months following the April protest movement, OHCHR received increased reports of killings and abductions attributed to an illegal armed group in the Terai districts of the Eastern Region, known as the *Terai Janatantrik Mukti Morcha* (TJMM). TJMM advocates armed struggle for self-determination of the Madhesi community which has been traditionally marginalized in Nepalese society. (The Madhesi, who originate from the Terai plains, represent a significant percentage of the population, with many of them being indigenous peoples and Dalits.) Violations peaked in July and August, with the abduction of two Government customs officials and the killing of several CPN-M cadres by TJMM. CPN-M retaliated by abducting and torturing several TJMM-affiliated persons and killing at least one.

46. With few exceptions, the police have not investigated or intervened to stop acts of violence involving TJMM, or illegal acts of retaliation by CPN-M. The absence of law enforcement has led to the continuation of retaliatory killings and abductions, creating a climate of fear and uncertainty particularly throughout the eastern districts of Saptari and Siraha where TJMM is most active.

47. The Terai districts of the Western Region are also areas where hostility among illegal "retaliation groups" (known as *Pratikar Samiti*), CPN-M and Government authorities is likely to continue – although there is significant local variation in the intensity and frequency of alleged abuses (see also E/CN.4/2006/107, para. 59-61). In Kapilbastu District, OHCHR received reports of tensions between *Pratikar Samiti* and CPN-M, and of acts of violence and extortion by both groups against local communities. On 1 June 2006, a three-year-old child was killed and two other children were severely injured, reportedly, by members of a vigilante group in retaliation against their father, member of the CPN-M. In Nawalparasi District, there have been indications that *Pratikar Samiti* members are turning over weapons and surrendering directly to the CPN-M, instead of to Government authorities, although there have been efforts to mediate between all parties. As in the eastern Terai, the police are reluctant to investigate or intervene to prevent acts of violence involving illegal armed groups and CPN-M.

48. The extent of the threat to human rights posed by these groups is difficult to assess. At this stage they are localized, but the issue itself of Madhesi demands for citizenship, as well as the absence of State law enforcement actions, leaves a vacuum which is easily filled by such groups.

IV. Accountability

49. Transitional justice, including accountability for past violations, has become part a key issue of debate in the context of the peace process. The relatives of hundreds of people who disappeared in the custody of the security forces throughout the armed conflict, victims of abuses by CPN-M and relatives of members of the Nepal Police killed during the conflict are among various groups lobbying for more attention to their demands for truth, justice and reparation. However, neither party appear to be giving the issue much attention.

50. Immediately after taking office, the new Government appointed a five-member High-Level Commission of Inquiry chaired by former Supreme Court judge Krishna Jung Rayamajhi to investigate human rights violations and abuse of State funds since 1 February 2005, including those committed during the April protests. OHCHR provided the High Level Commission of Inquiry with a paper on international criteria for such a commission of inquiry mandated to investigate human rights violations. In September, OHCHR submitted an 80-page report of its own findings into excessive use of force by security forces during the April demonstrations. Without waiting for the findings and recommendations of the Commission of Inquiry, the Government is proceeding with providing ex gratia payments to the relatives of people who died during the protests and thousands who were injured.

51. Ensuring accountability for hundreds of disappearances by the security forces and by CPN-M respectively is a key concern of OHCHR. The Ceasefire Code of Conduct commits both parties to make public "at the earliest" the whereabouts of citizens who have been disappeared. The draft Human Rights Agreement provides that both parties shall make public the status of every individual allegedly disappeared and kept in captivity and shall provide

information to their family members, legal counsel and other authorized persons. The draft Ceasefire Agreement provides that both parties should inform the families of people disappeared and killed during the conflict about where they were killed, buried or cremated within 30 days of the Agreement coming into force. The draft Ceasefire Agreement also provides that "both parties are committed to finding the truth of incidents during wartime and finding various solutions to restore normalcy". However, to date, there is no clarity on any mechanism to establish the truth in relation to past violations, nor have the parties made a commitment assuring justice and reparations for all the victims of the conflict and their families.

52. The Government has yet to respond to many demands to ensure justice in relation to human rights violations in this transitional phase. A directive given to the Government by the Parliamentary Committee on Foreign Affairs and Human Rights to form an "all-powerful commission to solve the issue of disappearances once and for all" on 25 July has not yet been implemented. As per the directive, the Commission of Inquiry should be made up of parliamentarians, civil society members and human rights defenders and should be given the authority to probe into the acts of the Nepalese Army, identify perpetrators and recommend punishment for those found guilty.

53. As of September, OHCHR had not received any written response from the Government to a report it submitted in late May documenting the arbitrary arrest, torture and disappearance of at least 49 people held by the Bhairabnath battalion in Maharajgunj, Kathmandu in late 2003 and early 2004. The Nepalese Army indicated that it was investigating the cases and provided information on a few individuals. OHCHR confirmed that two detainees had been released and that the body of another was handed over to the family. However, in another case, it found evidence contradicting the Nepalese Army's claims that the victim had died in a bomb explosion. OHCHR does not consider the Nepalese Army's investigations to be transparent or impartial and is continuing to press for an independent commission of inquiry into all these cases.

54. The only body created to deal with past human rights violations is a one-person Disappearances Committee established in the Home Ministry in early June 2006. He presented his preliminary findings to the House of Representatives' Committee on 25 July, claiming the fate or whereabouts of more than 100 disappeared persons had been established as either "released" or "killed in crossfire" according to information provided by the security forces. A further 601 people remain unaccounted for. However, he stated that he did not have the capacity to carry out investigations and has not yet submitted a final report to the Home Minister.

55. In early September, in addition to the 49 above-mentioned cases (para. 53), OHCHR submitted 450 past cases of disappearances to the relevant security forces. All cases have also been submitted to the United Nations Working Group on Enforced and Involuntary Disappearances.

56. Strengthening the legal framework to reinforce accountability for any future violations is also an issue to be addressed. As stated above, OHCHR submitted recommendations related to impunity to the Drafting Committee. In August, in a letter to the Speaker of the House of Representatives, it highlighted major concerns relating to provisions of an Army Bill before the House of Representatives regarding jurisdiction for serious violations committed by the military. OHCHR recommended the early ratification of the Rome Statute of the International Criminal Court. A directive was issued by the House of Representatives on 25 July 2006 ordering the Government to sign the Rome Statute immediately but the process of ratification is in its early stages.

57. Since the ceasefire, families of victims of present and past human rights abuses have been more willing to present complaints (First Information Reports, FIRs) to police for criminal investigation. OHCHR is monitoring 17 cases filed with the police in relation to past human rights violations around the country. All of them are stalled due to lack of political and institutional will, and real or perceived legal obstacles.

58. In some cases, the police have argued that it is not proceeding with criminal investigations because an independent or parliamentary investigation is ongoing. For instance, police in Belbari, Morang District would not start an investigation into the alleged rape and killing of a woman and subsequent killing of six demonstrators in late April by

the Nepalese Army, until a Parliamentary Probe Committee had issued its report and they received authorization from the Government.

59. In the case of Maina Sunuwar, a 15-year-old girl who died within hours of her arrest by the Nepalese Army in 2004, the Nepal Police finally visited the Nepalese Army Birendra Peace Operations Training Center in Phanchkal in June to obtain information regarding her death and to secure the site where her remains are believed to be buried. Since then, however, the process has stalled completely due to the Nepalese Army challenging the police's jurisdiction, and protracted delays in the authorities' response to the Nepal Police's request for legal advice as to whether the investigation can proceed. OHCHR continues to advocate for an independent investigation and has offered to facilitate the assistance of international forensic experts in the exhumation of the remains in this and other cases.

60. The reluctance of authorities to proceed with criminal investigations relating to past human rights violations is not limited to cases involving the Nepalese Army. In Dhanusha District, an FIR was filed in July regarding the disappearance of five students in October 2003 and naming police officers and the then local administrator as the main suspects. While the alleged burial site has been secured, no further investigative steps have reportedly been taken despite pressure from the relatives, local and national non governmental organizations (NGOs) and OHCHR and despite Government claims that it had given "stern directives" to proceed.

61. The judiciary's role in pursuing accountability for human rights violations to date remains very limited. Numerous habeas corpus petitions relating to long-term disappearances have remained pending before the Supreme Court for many years. Writs filed since the start of the peace process, in which the petitioners are seeking the intervention of the courts to push relevant authorities to start investigations, award compensation or provide information also remain pending. Two contempt of court cases initiated by families of the disappeared against senior Nepalese Army officers for providing misleading information on the whereabouts of disappeared persons were dismissed by the Supreme Court on 29 July 2006. However, on 28 August, for the first time, the Supreme Court, ordered that an "all-powerful probe committee" be set up to investigate the disappearance of a lawyer and two students after their arrest by security forces in 1999 and 2002 respectively.

62. In addition to advocating accountability for human rights violations by the state, OHCHR has urged CPN-M to take responsibility for abuses by its members. As stated above, OHCHR raised concern about a series of killings in the Central Region which had resulted in the death of eight individuals in May and June 2006. Despite assurances that CPN-M would investigate these killings and punish anyone found guilty, no information had been received by OHCHR, as of late August, regarding any action taken, although in some cases local CPN-M leaders have accepted responsibility.

63. OHCHR has repeatedly raised with CPN-M its concerns about more than 150 abductions reported during the period of the conflict where the fate or whereabouts of the person has remained unknown. It is thought that among them are scores of parliamentary political party members, teachers, members of the security forces and alleged informants.

64. On 26 June 2006, OHCHR urged CPN-M to set up a mechanism at the national level to oversee internal investigations into allegations of abuses by CPN-M cadres to ensure that they are impartial and complete, and do not result in further violations. OHCHR also made clear its position that such "internal investigations" cannot substitute for independent investigations and prosecutions carried out in a civilian state court.

65. OHCHR noted with special concern that although the leadership said that action was taken against those responsible for the 2005 attack on a public bus in Madi, Chitwan District (see A/60/359, para. 37), resulting in the death of at least 35 civilians and members of the security forces, some of those responsible were freed after "serving sentences" of apparently two to three months "corrective punishment".

V. Internal displacement

66. Until the ceasefire, forced internal displacement was the result of violations of human rights and international humanitarian law committed by both parties during the conflict. Forced recruitment, extortion and credible threats of other violations against politically-affiliated civilians, vulnerable professional groups and those seen to be collaborating with either party to the conflict have led to long-term displacement from rural areas to the district headquarters and from the hill-districts to the Terai, India and further abroad.

67. Since the ceasefire, forced internal displacement has largely come to an end. Some limited new displacements have been triggered by increased CPN-M extortion drives and "law enforcement" activities, but many internally displaced persons (IDPs) are now exploring return possibilities. Actual return is so far small-scale but steadily increasing, its pace determined by progress in the peace process and the degree of acceptance of returnees by local CPN-M cadres.

68. CPN-M central leadership has repeatedly made commitments – in statements and agreements – to the safe return of IDPs and to the restitution of their confiscated land and property. This commitment is often repeated by regional commanders but not fully adhered to by local CPN-M leaders at the Village Development Committees where most returnees are arriving. In some regions, CPN-M local cadres effectively decide who can return and impose conditions on return, including payments and/or public apologies for alleged IDP "wrongdoing". In other areas, returning IDPs have been unconditionally welcomed back by CPN-M and have had their property returned to them. As spontaneous and NGO-facilitated returns are increasing, OHCHR is monitoring return movements, and in conjunction with UNHCR and OCHA, advocating with CPN-M at the local and central level to ensure that formal commitments to safe and dignified return are respected at the local level.

69. The Government itself has so far failed to respond to IDPs' increasing interest in return. The United Nations' offers of technical support and calls for a comprehensive policy and concrete planning for return have been not yet been addressed. In its budget for 2007, the Ministry of Finance has included limited monetary support for returning IDPs and other conflict victims, but so far there is no plan addressing the concrete assistance and protection needs of returning IDPs. This gap allows most officials at the district level to remain passive in relation to planning and support of local return processes. In the absence of state action, such responsibility is often shouldered by local human rights NGOs, with limited funding from international NGOs.

70. The return of IDPs in Nepal is unlikely to be immediate and massive but rather gradual and individual (or in small groups). Safe and sustainable return – effectively supporting peace and reconciliation – is therefore achievable. However, the above-mentioned challenges must be addressed urgently: the Government must design a concrete, comprehensive plan for return, technically and financially supported by the international community, and CPN-M must ensure compliance at the local level with its commitments regarding the return of IDPs.

VI. Social exclusion/marginalization

71. Caste, ethnic and gender discrimination are longstanding human rights issues with profound implications in terms of civil and political as well as social, economic and cultural rights. Many marginalized communities suffered disproportionately during the armed conflict. The April protest movement included their active participation throughout the country.

72. OHCHR has held wide consultations with representatives of Dalit, indigenous and Madhesi communities and sexual minorities' organizations as well as women's groups, to better identify their human rights concerns and how to address these. Workshops have been conducted with Dalit organizations on the issue of access to justice, and with women from the Tharu community to increase the engagement of OHCHR with this community. Many of these groups see the political transition as a critical juncture in the struggle for their rights and equal place in society.

73. Representation of marginalized groups in the peace process continues to be an issue only partially addressed. As indicated above, only after protests were women and a Dalit representative brought into the Drafting Committee. Only two of the members of the National Monitoring Committee are women. Neither the Government nor CPN-M peace talk teams include women.

74. Dalits, indigenous and ethnic communities and Madhesis have become more vocal to ensure that their rights-based political demands are heard in the transition. Demonstrations have been organized by women's groups, ex-kamaiyas (ex-bonded labourers) and sexual minorities, among others. In the Terai, the issue of citizenship for up to four million Madhesi people is emerging more publicly. The question of citizenship is one of the issues raised in the recommendations of OHCHR to the Drafting Committee as well as the need to extend the prohibition on discrimination to include, inter-alia, ethnic or social origin and to broaden the right to equality before the law, which currently does not apply to non-citizens. In line with the House of Representatives' proclamation of 18 May, the Cabinet tabled a citizenship bill before the House of Representatives on 10 September 2006, which for the first time would grant citizenship rights based on maternal lineage and would reportedly grant citizenship to those who can prove permanent residence in Nepal since 1990.

75. The Cabinet also announced on 22 August 2006 that 45 percent of civil service jobs would be reserved for Dalits, Madhesi and other ethnic groups as well as for women. The Government informed OHCHR that 33 percent of those jobs were reserved for women.

76. There is increasing debate about gender equality, including violations against women and girls, although fear of retaliation or further victimization continues to be an impediment to reporting, especially in the most vulnerable communities. OHCHR recorded a total of 108 allegations of gender-based violence during the first seven months of 2006, some of which have been raised by OHCHR with local authorities. Only a handful of cases were reported to police and women have little hope of obtaining justice. There is a need for monitoring bodies which can, in collaboration with operational partners, provide support to victims, further investigate sexual violence inflicted on women and girls and identify solutions.

77. The issue of social inclusion and equality is a central consideration of many people's support for political transition. Unless these concerns are seriously addressed, there is a danger of deepening social divisions and further violence. Real and sustained change, including the recognition and enjoyment of rights by traditionally marginalized groups, will be an important factor in building a stable and sustained democracy during the transition. Particularly crucial will be the electoral process established for the Constituent Assembly, including the issue of eligibility to vote, candidate selection and representation within the Constituent Assembly.

VII. Conclusion

78. Since the last report to the General Assembly, in October 2005, there have been considerable improvements in the human rights situation in Nepal. The Government and CPN-M have recognized in their agreements that human rights are core elements to the peace process. Civil society, in its broadest sense, has framed many of its demands in human rights terms. There are expectations that the peace process will bring solutions to long-standing human rights issues, especially deeply-engrained discrimination, prejudices and abuse against marginalized groups, as well as economic disparities.

79. The current improvements remain fragile and any setback to the peace process risks a negative and potentially devastating impact on the human rights situation. It is essential that all stakeholders are committed to the peace process and address human rights issues at every stage to ensure a sustainable peace with justice. Many challenges remain, a major one being the issue of law enforcement and the administration of justice. The current weakness (and in many places absence) of law enforcement agencies, their limited capacity or will to maintain law and order and to protect the civilian population from violence, limited Government support and the resistance of CPN-M, will facilitate the emergence of elements who wish to undermine the peace process

unless these problems are urgently addressed. The strengthening of law enforcement and justice capacity will be essential to ensuring that the electoral process for a Constituent Assembly, from its early stages, can be organized without fear, intimidation or more serious abuses. In this context, parties will need also to recognize the demands of marginalized groups to adequate representation.

80. Holding those responsible for violence and for human rights violations to account, thereby effectively ending the current climate of impunity at the level of the state and by CPN-M must be a priority. Hundreds of thousands of lives have been affected by the conflict with many still bearing the scars, having lost their loved ones; as a result of torture and detention; maiming by bombs and improvised explosive devices; displacement and economic hardship; the psychological trauma of conflict. The peace process offers hope of recovery, but it lies with the parties to the conflict to translate their written commitments to human rights into effective, long-lasting action. OHCHR stands ready to assist regarding human rights matters related to the peace process.